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REPORT

Commission and Committee of Inquiry

MADE ON FEBRUARY 28th, 1921, BY
A COMMITTEE APPOINTED BY THE
RT. HON. C. J. DOHERTY, MINISTER OF JUSTICE

TO ADVISE UPON THE

REVISION OF THE PENITENTIARY REGULATIONS

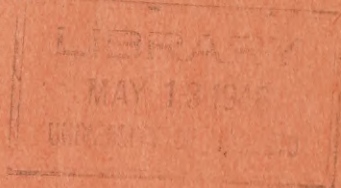
AND THE

AMENDMENT OF THE PENITENTIARY ACT

TOGETHER WITH

A BILL TO AMEND THE PENITENTIARY ACT

BASED THEREON AS INTRODUCED IN THE
HOUSE OF COMMONS, MAY 21st, 1921



REPRINTED MAY 4, 1946
THE JACKSON PRESS
KINGSTON, ONT.

Foreword

MAY, 1946



[T having been ascertained that the report made in 1921 by Messrs. O. M. Biggar, K.C., W. F. Nickle, K.C., and the late P. M. Draper to the Right Honourable C. J. Doherty, K.C., then Minister of Justice, was out of print and that copies were, practically speaking, unavailable for reference, the surviving members of the Committee have had this reprint of the report made in the belief that its contents are still worthy of attention and may usefully be considered by those who may be concerned with the proposals for penitentiary reform now under consideration by Parliament.

To the report has been appended a copy of the Bill to Amend the Penitentiary Act (No. 201 of 1921) introduced by the late Mr. Doherty in order to permit the recommendations of the Committee to be put into operation.

The Bill was introduced too late in the session to be preceded with and was not re-introduced at the next session following the intervening general election.

THE HOUSE OF COMMONS OF CANADA
BILL 201

An Act to Amend the Penitentiary Act

HIS Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:—

1. Section ten of the Penitentiary Act, chapter one hundred and forty-seven of the Revised Statutes, 1906, is amended by adding the following paragraph at the end thereof:—

“(c) every hospital to which any convict may be sent as a patient.”

2. Sections fourteen to twenty-two, both inclusive, of the said Act, as enacted by chapter thirty-six of the statutes of 1918; section twenty-four of the said Act; subsection one of section twenty-five of the said Act as enacted by chapter sixty-one of the statutes of 1920, and subsection two of the said section twenty-five; and section twenty-six of the said Act as amended by chapter thirty-six of the statutes of 1918, are repealed, and the following sections are substituted therefor:—

“14. (1) the Minister may, for the purpose of advising and assisting him in the administration of the penitentiaries, constitute a Penitentiary Board, of which the Minister, or alternatively the Deputy Minister, shall be Chairman, and of which the members shall be such officers of the Department of Justice as the Minister from time to time appoints, such officers of other departments as may be agreed upon by the Minister and the Minister of the other department concerned, and such other persons as may, at the request of the Minister, act thereon without remuneration other than their necessary and reasonable travelling expenses.

(2) The duties of the Board and the special duties, if any, of the individual members thereof may be defined by regulations under this Act.”

“15. The Minister may, by writing under his hand, confer upon any officer of the penitentiaries or upon any member of the Penitentiary Board:—

- (a) all the powers of a justice of the peace for any or every place in Canada;
- (b) the right of access to any or every penitentiary and to any or all books or records therein;
- (c) power to assume control of any penitentiary and to exercise all the powers of a warden in relation thereto, and may in the same manner confer upon any person the power of a commissioner under Part II of the Inquiries Act in relation to any matter touching the management or administration of a penitentiary.”

“16. In making an appointment to any of the following positions in the Penitentiary Branch of the Department of Justice or at any penitentiary, namely, superintendent or inspector of penitentiaries, industrial director, medical director, warden, medical officer or chaplain, the Civil Service Commission shall act in the same manner in all respects as the head of a large business; it shall, apart from every party political consideration, select for appointment the person whom the Commission considers to have the highest qualifications in character, temperament, capacity and experience, and for the purpose of such selection shall make such enquiry and give such public notice as would ordinarily be made or given by a private employer, and offer the position to the person whom the Commission selects.”

3. Section twenty-seven of the said Act as amended by chapter thirty-six of the statutes of 1918, is repealed, and the following section is substituted therefor:—

“27. The warden of a penitentiary shall be the chief executive officer of the same and as such shall, subject to the instructions of the Minister by regulation under this Act or otherwise, have the entire executive control and management of all its concerns: he shall be responsible for the faithful and efficient administration of the affairs of every department of the penitentiary and shall reside thereat.”

4. Section thirty-two of the said Act as amended by chapter thirty-six of the statutes of 1918, is repealed, and the following section is substituted therefor:—

“32. (1) The warden of any penitentiary may, if any officer or other person employed at the penitentiary is guilty of misconduct or of any breach of the regulations under this Act, suspend the offender from his employment, or, if the officer or other person is of or below the grade of senior prison guard or trade instructor, impose a fine upon him of any amount not exceeding one month's pay.

(2) The evidence on the hearing of any complaint against any officer or other person employed at a penitentiary for any act for which he might be suspended or fined as aforesaid shall be fully taken down in writing, and, if the person complained against is found guilty and suspended or fined, shall be transmitted forthwith by the warden to the Penitentiary Board, who shall, as soon as possible, consider the case and, subject to the approval of the Minister, either affirm or refuse to affirm the decision of the warden.

(3) If the decision of the warden was that the person complained against should be suspended from his employment and such decision is affirmed, such person shall stand dismissed from the service of the penitentiary as from the date of his suspension, unless the Penitentiary Board, subject to approval as aforesaid, otherwise directs.

(4) Any officer or servant of the penitentiary who is fined fifty dollars or more under this section may elect to leave the service of the penitentiary in lieu of the payment of such fine, and shall, if he so elects, be deemed to have resigned as of the date of the imposition of the fine or, if he has remained on duty pending the action of the Penitentiary Board, then as of the date of notice to him of the affirmance by the Penitentiary Board of the decision of the warden.”

5. Paragraph (d) of section thirty-five of the said Act is repealed, and the following paragraphs are substituted therefor:—

“(d) Any officer who is required to wear uniform may be supplied therewith under such conditions as are laid down by the regulations made under this Act.

“(e) Any officer shall be entitled to purchase from the penitentiary for his personal use or the personal use of any member of his family wholly dependent upon him and resident with him, any article manufactured in the penitentiary at which he is employed, at a price to be fixed by the warden as being equal to the cost of the material consumed in the manufacture of the said article, the value of the convict labour required for its manufacture at the rate of two dollars a day, and in addition an amount equal to ten per cent of the cost of both material and labour, and such right shall further extend to the repair of any article which, if it was manufactured in the penitentiary, might have been bought under this clause and of which the repair can be conveniently and economically undertaken in the penitentiary.”

6. Sections thirty-six, thirty-seven and thirty-eight of the said Act, and sections thirty-nine and forty of the said Act as amended by chapter thirty-six of the statutes of 1918, are repealed.

7. Section forty-one of the said Act was amended by chapter thirty-six of the statutes of 1918, is repealed, and the following section is substituted therefor:—

"41. The Governor General of Canada, the Lieutenant Governor of any province of Canada, any member of the King's Privy Council for Canada, any member of the executive council of any of the provinces, any member of the Parliament of Canada, any judge of any court of record in Canada or in any of the provinces, and any other person having the written authority of the Minister in that behalf, shall have the right to visit any penitentiary at any time during which the penitentiary is open under the regulations made pursuant to this Act."

8. Section forty-two of the said Act is repealed, and the following section is substituted therefor:—

"42. Every one who is sentenced to imprisonment for life, or for a term of years not less than two, shall be sentenced to imprisonment in such penitentiary as the Minister may from time to time direct with respect to convicts sentenced in any province or any part of a province, or, in default of such direction, to imprisonment in the penitentiary nearest to the place of sentence."

9. The following section is inserted in the said Act immediately after section forty-two thereof:—

"42(A).—Every judge or judicial officer who sentences any person to imprisonment in a penitentiary shall forthwith after passing sentence and in the presence of the convict complete a report in Form One in the Schedule to this Act, or in such amended form as may be authorized by the Minister, and shall transmit such report forthwith to the Minister or such officer as he may direct."

10. Section forty-seven of the said Act is amended by adding the following subsection thereto:—

"(6). The powers by this section conferred upon the Minister may, by writing under his hand or by regulation under this Act, be delegated to such other member of the Penitentiary Board or to such warden, described by name or by reference to his office, as to him seems meet. Such delegation may be made to one or several persons, and may be subject to such conditions as the Minister may in any such delegation impose."

11. Sections fifty-three, fifty-six and fifty-eight of the said Act, as amended by chapter thirty-six of the statutes of 1918, and sections fifty-four, fifty-five, fifty-seven, fifty-nine and sixty of the said Act are repealed, and the three following sections are substituted therefor:—

"53. A convict who is certified by the medical officer of any penitentiary as mentally defective or mentally disturbed to a degree rendering it unreasonable to compel such convict to conform to the penitentiary discipline, or likely that his condition will be aggravated by his being so compelled, may be dealt with as follows:—

- (a) If such convict is so certified within three months from his arrival at the penitentiary, and it is further certified that the condition existed at the time the convict was so received, he may, on due notice to the attorney general of the province concerned, be removed to any gaol or other place of confinement in which he was confined while awaiting, or after, trial for the offence for which he was sentenced, or to any other place to which he may be directed to be removed by the Lieutenant Governor of such province.
- (b) If no such certificate as is described in the last preceding clause is given within three months from the arrival of the convict at a penitentiary, proper provision shall be made for his proper care and treatment either

- by his removal to a provincial institution pursuant to any arrangement in force with the Lieutenant Governor of the province concerned, or to a hospital for mentally defective, or mentally disturbed convicts administered as a penitentiary or part of a penitentiary.
- (c) If any convict removed as described in the last preceding clause, is, before the expiration of the term of his sentence, certified to have so far recovered as to be fit to complete the same in a penitentiary, he may, unless his condition be found by the competent authority such as to justify mitigation or remission of his sentence, and with the approval of the Minister, be returned to the penitentiary and required to complete his sentence accordingly.
- (d) If at the termination of the sentence of any convict, he is under treatment at a mental hospital administered as a penitentiary or part of a penitentiary and is certified by the medical officer in charge thereof as unfit for release, the lieutenant governor of the province concerned shall be notified and the convict delivered into such custody as the said lieutenant governor may direct, there to remain subject to the same conditions in all respects as if he had been committed to such custody under the laws of the province."

"54. Any convict found on his arrival at a penitentiary to be suffering from any notifiable infectious or contagious disease may be refused admission pending his recovery, and any convict so suffering at the end of the term of his imprisonment in a penitentiary may be detained in hospital therein until he can be released without danger to the public."

"55. The regulations made under this Act may authorize the employment, for the examination, treatment or care of any convict who is seriously ill, either mentally or physically, of such specialists and nurses as are necessary in the circumstances, and the medical supervision of any penitentiary may be entrusted to the faculty of medicine of any recognized university."

12. Section sixty-three of the said Act is repealed, and the following section is substituted therefor:—

"63. Female convicts shall be secluded from male convicts, either in a separate ward in a penitentiary in which both male and female convicts are confined, or in a separate institution; any separate ward shall be under the charge of a matron and any separate institution under the charge of a female warden with, in either case, such number of female officers as may be required."

13. Section sixty-four of the said Act as amended by chapter thirty-six of the statutes of 1918 is repealed, and the following section is substituted therefor:

"64. Provision may be made by regulations under this Act for the partial remission of the sentence of any convict whose conduct and industry justify the shortening of his sentence, but no such remission shall exceed six days for each elapsed month of his term of imprisonment until after the convict has seventy-two days remission to his credit, or ten days for each elapsed month of his term thereafter."

14. Section sixty-five of the said Act as amended by chapter thirty-six of the statutes of 1918, is repealed, and the following section is substituted therefor:

"65. A copy of this Act and of any regulations made thereunder, so far as they affect his rights, treatment or conduct, shall be supplied to every convict on his arrival at a penitentiary."

15. The following sections are inserted in the said Act immediately after section sixty-five:—

"65A. (1) the public money of Canada shall not be expended in the purchase of any goods which can conveniently be manufactured or produced at a peniten-

tiary and delivered where they are required for the public service with economy to Canada, having regard to the provisions of subsection two of this section and to the provisions of this Act on the subject of the remuneration of convicts for their labour.

(2) No charge shall be made by the Department of Justice (Penitentiary Branch) against any department of the Government of Canada for the labour of any convicts or penitentiary officers entering into the manufacture or production of any goods in the penitentiaries."

"65B. There shall be allotted quarterly in the manner hereinafter provided to or for the benefit of the convicts in each penitentiary, or their dependents, an amount at least equal to one-third of the labour value of the work done by the inmates thereof during the next preceding quarter and, when the remaining two-thirds amounts to more than the whole cost of maintaining the penitentiary, then the excess of the labour value beyond such cost."

"65C. (1) The labour value for the purpose of the last preceding section shall be the sum of the following:—

(i) the fair market value at each penitentiary of all goods manufactured thereat for any department of Government, including goods manufactured for the Penitentiary Branch of the Department of Justice, ascertained quarterly or oftener by a valuer or valuers appointed by the Governor in Council:

(ii) The fair value of all work done by the inmates of any penitentiary on any public work, including the construction of buildings or improvements in or about the penitentiary and for its benefit, ascertained by or under the direction of the Department of Public Works quarterly or oftener as may be directed by the Governor in Council:

(iii) The fair value at each penitentiary of any farm products produced thereat and used elsewhere ascertained quarterly or oftener by or under the direction of the Minister.

(iv) The price obtained for any goods or products sold to the public, but no goods or products except hay, grains, roots, or large fruits, shall be sold without the express approval of the Minister, which may be given only when such goods or products have accidentally become surplus to requirements, and

(v) The price charged to any officer or servant employed at the penitentiary for goods made or repaired thereat for such officer or servant under the authority of this Act: less the sum of the following:—

(a) The cost of materials used in the construction or improvement of any public work or the manufacture or production of the goods or produce of which the value is directed to be ascertained as aforesaid:

(b) The payments actually paid for the services of those members of the staff of the penitentiary employed to direct the manufacture or production:

(c) An amount equal to eight per cent per annum on capital cost of the penitentiary buildings, grounds, machinery and plant insofar as such cost was incurred for the equipment of the penitentiary to manufacture or produce goods, but excluding the expense incurred for other purposes including lodging, security and health, and

(d) The share of the penitentiary in proportion to its average daily working population during the preceding financial year, of the whole amount payable during the quarter by way of compensation for injuries sustained by convicts in any of the penitentiaries, the amount of such compensation and the character of the injuries for which it is payable being determined by reference to the Workman's Compensation Act of the Province of Ontario.

(2) No allowance shall be made for farm produce grown or raised at any penitentiary and used thereat, and no allowance or deduction shall be made for food purchased, produced, raised or prepared at any penitentiary or for work done in the course of the routine repair and upkeep of buildings, grounds, machinery or plant."

"65D. The distribution among the convicts at each penitentiary, or their dependents, of the allotted share of the labour value of the work done thereat as ascertained under this section shall be made as directed by regulations under this Act."

16. Section sixty-seven of the said Act is amended by striking out the last three lines thereof and substituting the following:—

"shall, if an officer or servant of a penitentiary, be guilty of an indictable offence and liable to imprisonment for five years, and if not an officer or servant of a penitentiary be liable, on summary conviction, to a penalty not exceeding one hundred dollars or imprisonment with hard labour for a term not exceeding three months."

17. Section sixty-seven of the said Act is further amended by adding thereto the following subsection:—

"(2) In any proceeding under this section the onus shall be upon the defendant to prove that any article or thing given, conveyed, left, taken, received, carried, or bought, was allowed to be so by the rules of the penitentiary or gaol, or that any convict employed on work for the personal benefit of the defendant or any other person, was so employed with proper authority."

18. Subsections six and seven, of section seventy-two of the said Act are repealed, and the following are substituted therefor:—

"(6) Every convict shall, upon his release from a penitentiary, be entitled to be issued with transportation by public carriage to the place at which he was sentenced, if he intends to go so far, or, if not, to the place to which he intends to go."

"(7) No convict shall, unless he so desires, be released from a penitentiary without proper personal equipment, including a suit of clothes, boots, hat, adequate underclothing, handkerchief, nightshirt, tooth-brush, hair-brush, comb, and, if the season so requires, an overcoat and gloves, or without, in addition, at least the sum of five dollars in money: the clothing shall not be recognizably of prison origin, and the prison marks, if any, on the other articles shall be removed."

"(7a) Insofar as, at the time of his release, the convict's clothing which he brought with him to the penitentiary and the articles in use by him immediately before his discharge are insufficient properly to equip him with the clothing and articles aforesaid, and he has not command of sufficient money, earned in the penitentiary, to buy such additional clothing and articles as he considers necessary at their cost of manufacture plus ten per cent, and to leave him at least the sum of five dollars remaining, he shall be supplied at the public expense with such additional clothing, articles and money as may be necessary to supply the deficiency, and the warden may, if, having regard to the season of the year and the probability of the convict not being able readily to secure employment or support, he considers it necessary, increase the sum which the convict receives in money to an amount not exceeding twenty-five dollars."

SCHEDULE

Form 1 (s. 42A.)

REPORT.

Under Section 42A of the Penitentiaries Act, 1921,

by _____
on _____

Sentenced to Imprisonment for a term of _____ years on the _____
day of _____ 19_____

(To be filled in by the judge or magistrate by whom any prisoner is sentenced to a term of imprisonment in a penitentiary. Where circumstances compel it a note will be made that no information is obtainable, the symbol "N.I.O." being used for this purpose.)

To the _____
Ottawa

Sir,—I have the honour to make the following report on the above named:—

1. Particulars of Prisoner.

- (a) Age stated _____ (b) Apparent age _____
(c) Place of birth _____

2. Conditions in Infancy.

- (a) Brought up by parents? _____
(b) If not, by whom? _____
(c) Character of home, (good, bad or indifferent) _____
(d) Town or country? _____

3. Conditions During Adolescence.

- (a) Attended school till what age? _____
(b) City or country? _____
(c) At or away from home? _____
(d) Character during adolescence? _____
(e) Previous criminal record, if any? _____

4. Condition at Present Time.

- (a) Apparent percentage of intelligence (maximum 100%)? _____
(b) Apparent percentage of strength of character (maximum 100%)? _____
(c) Married or single? _____
(d) Number of children, if any? _____
(e) Age and status of children? _____
(f) Domestic conditions of prisoner (good, bad or indifferent)? _____
(g) City or country? _____

5. Particulars of Crime

I have marked below what was in my opinion the principle cause of the present crime with the number "1" and the subsidiary causes, so far as they had any application, in the order of their relative importance with the succeeding numbers.

- (a) Accidental combination of circumstances _____
(b) Bad influence of associates of prisoner _____
(c) Undisciplined emotions of prisoner _____
(d) Abnormality of prisoner _____
(e) Deliberate and malicious criminality of prisoner _____

6. Recommendation

(a) I, _____ recommend that the question of releasing the prisoner on parole should be immediately considered.

(Signature) _____
(Office) _____

Date _____
Place _____

*Insert "do not" if necessary.

REPRINT

REPORT

OF THE COMMITTEE APPOINTED BY THE
RT. HON. C. J. DOHERTY, MINISTER OF JUSTICE,
TO ADVISE UPON THE

REVISION OF THE PENITENTIARY REGULATIONS
AND THE
AMENDMENT OF THE PENITENTIARY ACT

February 28, 1921

(Reprinted at the Jackson Press, Kingston, Ont., May 4, 1946.)

Committee:

O. M. BIGGAR, Esq., K.C., *Chairman.*

W. F. NICKLE, Esq., K.C.

P. M. DRAPER, Esq.

Secretary—D. J. HALPIN.

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LETTER TRANSMITTING REPORT

OTTAWA, February 28, 1921.

The Right Honourable C. J. DOHERTY, P.C.,

Minister of Justice,

OTTAWA.

SIR—Pursuant to the appended reference made by you to us under Section 22 of the Penitentiaries Act, we have the honor to transmit herewith our report. The italic notations in the reference indicate the paragraphs of the report dealing with the several subjects therein specifically mentioned.

The views expressed in the report have been formed as the result not only of a perusal of a not inconsiderable part of the voluminous literature on the subject, but also of visits to all the penitentiaries except the comparatively small one at Dorchester, N.B., and very full and searching discussions with many penitentiary administrators both in Caanada and the United States, several medical men of eminence, particularly those especially interested in the treatment of mental cases, some officers of organizations having as their object the improvement of penal systems, and numerous convicts.

Some of our discussions it was inconvenient or impossible to report verbatim, but most have been so, and the notes extend to some fifteen hundred pages. In their present form they contain some confidential matter and some matter of no permanent value, but they also contain a great deal of material which might be very useful to penitentiary officers in carrying out the changes suggested by the report. If it is considered desirable to publish this material, one of the members of the Committee would be prepared to undertake to edit the notes of evidence for that purpose.

With the report there are transmitted a number of special publications, returns and submissions handed to or prepared for the Committee, a list of these being appended to the report as Appendix C. Special attention is directed to the very elaborate printed report on a survey of the prisons of the State of New York, undertaken in 1920 under the direction of the National Committee on Prisons and Prison Labour. This contains much that is very valuable.

The Committee has received the most cordial assistance from everyone to whom it has applied. To refer expressly to all the Canadian officials and others to whom the Committee is indebted would make too overwhelmingly long a list, but the Committee cannot refrain from expressing its gratitude for the help it received from prison officers and others in the United States, or from making particular reference to the assistance given it by Honourable Burdette G. Lewis, Commissioner of Institutions and Agencies for the State of New

Jersey, who arranged for the Committee an opportunity of very valuable discussions with him and with several heads and officers of institutions under his charge; to Governor Alfred Smith of the State of New York who, through Mr. Lewis Pilcher, the State Architect, made a most generous offer to furnish copies of the latest plans of state prisons, to the preparation of which Mr. Pilcher has devoted special attention; to Mr. Sanford Bates, the Commissioner of the Department of Correction of the Commonwealth of Massachusetts, whose advice and suggestions were of great assistance; to Dr. Thomas W. Salmon, the Director of the National Committee on Mental Hygiene, and Dr. Bernard Glueck, of New York, who together placed their very wide knowledge of prison neuroses at the disposal of the Committee; to the Russell Sage Foundation and to Dr. Hastings H. Hart, the Director of its Department of Child-Helping, who not only afforded the Committee direct assistance, but brought it in touch with others whose suggestions were most useful; and to Mr. Alfred Lewisohn, the President of the National Committee on Prisons and Prison Labour, and to other officers and members of that Committee and of the American Association for Prison Reform, whose interest and assistance were invaluable.

The Committee is also much indebted to the wardens of the penitentiaries which it visited and to Brig.-General W. S. Hughes, the Superintendent of Penitentiaries, who, notwithstanding the urgency of his administrative duties, has been able to devote some time to the discussion of the subject with the Committee and has made a number of useful suggestions which the Committee has embodied in the report.

We have the honour to be, sir,

Your obedient servants,

(Signed) O. M. BIGGAR,
W. F. NICKLE.
P. M. DRAPER.

REFERENCE

Department of Justice

OTTAWA, September 28, 1920.

Pursuant to the provisions of section 22 of the Penitentiary Act, Revised Statutes of Canada, c. 147, as amended by c. 36 of 1918, I hereby nominate and appoint the following persons, namely:—Colonel O. M. Biggar, K.C., William F. Nickle, K.C. and Patrick M. Draper, Esquire, as a committee to consider and advise in regard to a general revision of the penitentiary regulations, more particularly in respect to the following subjects:—

- (1) The general prison routine with reference to the deterrence from crime of (a) ex-convicts (*para.* 80), (b) unconvicted persons (*para.* 80) and also with reference to the reformation of the convicts (*paras.* 57, 44, 48).
- (2) The differential treatment of classes of convicts and especially of first offenders and of well conducted convicts (*paras.* 36-38).
- (3) The arrangements for the labour of convicts (*paras.* 5, 42) including the hours of labour (*paras.* 26, 42), the industries adapted for prison development, both from the economic and reformatory points of view (*paras.* 26, 27), the necessary plant (*para.* 79), the destination of prison products (*paras.* 26, 27), the payment of convicts for their labour (*paras.* 27, 39) and generally the administration of prison industries (*para.* 35).
- (4) The numbers of the staff and their tours of duty.
- (5) The facilities for the self education of convicts and the provision of formal educational instruction (*paras.* 40, 41).
- (6) Diet and its variation, both generally and by reference to particular kinds of labour and for punishment (*paras.* 51, 53).
- (7) Prison offences and disciplinary punishments (*paras.* 50, 55).
- (8) Visits to and letters to and from convicts (*paras.* 45, 47).
- (9) The remission of sentences (*paras.* 24, 49, 77), and release on parole (*paras.* 24, 76).
- (10) Reports and inspections (*para.* 32).

And to make a special report as to the state and management of the penitentiaries in regard to the matters hereinabove recited.

It is desirable that the committee should, with its report, indicate if possible the exact terms in which the penitentiary regulations should be framed and the terms of any amendments in the provisions of the statutes which it may consider desirable.

I further appoint Colonel O. M. Biggar to be Chairman of the Committee and D. J. Halpin to be Secretary thereof.

(Sgd.) CHAS. J. DOHERTY,
Minister of Justice.

REPORT

PART I. GENERAL CONSIDERATIONS

Historical Development

1. The punishment of crime by imprisonment is very modern. Prior to the end of the eighteenth century the punishment imposed upon persons convicted of offences was ordinarily death, mutilation, whipping, transportation to a penal colony, or fine, and prisons existed almost only for the safe custody of prisoners awaiting trial or transportation and for their restraint while they tried to collect the money necessary to pay their fines. The earliest resort to imprisonment as a punishment for its own sake appears to have been in Europe, but the system was much developed in the earlier years of the United States, where what was known as the "Pennsylvania System," the principal idea of which was continuous and absolutely solitary confinement, acquired an evil reputation. Other American systems also became known and it was in the United States that the modern English system seems to have found its chief inspiration. Its earliest beginnings in England are only slightly over a century old, and its development was slow and gradual as the transportation of convicts became increasingly restricted until in 1867 transportation completely stopped.

2. At Confederation "penitentiaries" were made a subject exclusively for federal legislation, "public prisons and reformatories" being left to the provinces. This led to what appears to be a quite arbitrary division of responsibility, the execution of sentences of imprisonment for two years or more being assumed by the Dominion, while the Provinces continued to carry into execution sentences for shorter periods. The first Penitentiary Act (1868, 31 Victoria, chap. 35) provided for a regimen of the same general character as that then in force in England and known as the "silent associated system." Labour, at which convicts were directed to be constantly kept, was carried on in association, but that there should be no conversation between a convict and another convict or a guard, "except with respect to the work at which he is employed and then only in the fewest words," was made a cardinal rule, and each prisoner was directed to be kept "in a cell by himself at night and during the day when not employed, except in the case of sickness." Strictly speaking, this system has not altered at all in the fifty-three years which have intervened since Confederation, a period nearly half as great as the whole period during which penal confinement has been generally accepted by European peoples as the ordinary mode of punishing crime. There has been a certain loosening in the rigidity of the application of some of the rules, for example, the rule as to silence, but none in the principles upon which the punishment was applied. The Penitentiary Act has from time to time been repealed and re-enacted and some of its provisions from time to time amended, but the present statute does not substantially differ from that passed in 1868. From the beginning the Act has conferred power to make administrative regulations upon which the regimen of the penitentiaries has chiefly depended. The existing regulations are referred to below.

Present Position

3. There are at present in Canada six penitentiaries situated respectively and having accommodation for male convicts approximately as follows:—Kingston, Ont., 654; St. Vincent de Paul, P.Q., 550; Dorchester, N.B., 336; Stoney Mountain, Man., 183; Prince Albert, Sask., 208; New Westminster, B.C., 400. Each of these is under the charge of a warden to whom the whole of the personnel employed (including the medical officer) is responsible. Compliance by the wardens with the regulations is provided for, and the general administration of the penitentiaries carried out, by the Penitentiaries Branch of the Department of Justice, the general direction being vested in the Superintendent and the penitentiaries inspected by two inspectors. The latter report to the Superintendent and the former to the Deputy Minister of Justice. The convict population of the penitentiaries together is now nearly 2,000. Appendix A to this report contains an analysis by age and crime of the convict population on the 31st of March, 1920, and Appendix B gives the figures of the average daily convict population from year to year.

4. The Penitentiary Act contains a few directions as to the treatment of convicts, but the principal provisions on the subject are contained in the regulations which have, except for a few useful amendments recently made, remained in the same form since 1899, when they were last printed. It is now the regulations which contain the prohibition against conversation between convicts and between convicts and officers, "except in an emergency or with respect to the work at which" the convicts are employed, and this rule is reinforced by a further prohibition of communication between convicts by any sign or motion or by convicts with visitors even by the exchange of a glance. The regulations refer to letters and visits only for the purpose of conferring power (presumably upon the warden) to permit a convict whose conduct is satisfactory to receive a family visit once in three months and to write a family letter once in two, but no provision whatever is made to secure to convicts access to the penitentiary library or the opportunity of exercise, or to ensure that the cells in which they are required to be confined at night are hygienically such as they should be. The regulations contain no direction with respect to the hours of labour or its character or any clear definition of the mode in which the authorized punishments, which are primarily physical punishments of a character which can only be described as harsh and not unfairly as cruel, are to be inflicted. The regimen thus specified is of a definitely penitential character. Beyond food and clothing the convict is without rights and the conduct prescribed for him is that of an automaton; he is prohibited from feeling, or at least from exhibiting, any human emotion.

5. The Committee is glad to be able to report that the system thus laid down is rigidly followed in no penitentiary. The divergence from the principle of the regulations varies from institution to institution, and its extent depends upon the personality of the warden and the spirit he instils into his staff. In no penitentiary is the rule as to silence rigidly observed. In some the restriction upon communication is almost altogether removed. In others conversation is permitted within narrow limits, and in others there is a variation in the

application of the rule according to the whim or the condition of the digestion of individual officers, convicts being at times "crimed" for communications which at other times or by other officers are passed over without comment. Members of the Committee were told by officers at one institution that "angels could not obey" the regulations against communication and looking at visitors, and the warden of that penitentiary said that his officers understood he desired to check only boisterous or objectionable talk. On the other hand, the Committee was present at a warden's court where a convict was punished for making at a window an in itself unobjectionable gesture in the direction of another convict in the yard. At penitentiaries still under construction the temper of the convicts is far better than those at which construction work is insufficient to occupy a high proportion of the prisoners. In the latter, and, indeed, to some extent at nearly all, there is a lack of sufficient work. Excessive numbers of convicts must generally be employed in maintenance work, those industrially employed often work at low pressure, partly through fear of exhausting the available material, and ordinarily a large residue is engaged in breaking stone by hand, or some similar and equally useless occupation. So far from the convicts being required to work during, as the Penitentiary Act directs, "at least ten hours daily, if possible," the average number of hours worked, is, in most penitentiaries, rather less, and in none much more, than eight hours a day in summer and six hours a day in winter. During all the rest of each twenty-four hours, and during almost the whole day on Sundays and public holidays, the prisoners are confined in their separate cells.

6. The Committee has none but good words for the administration of some of the penitentiaries. Given a system of the character specified in the regulations, some wardens have succeeded to an astonishing degree in maintaining the moral stamina and industry of the prisoners under their control, but where the influences of abundant work and of a warden with a strong personality are not present, the system closes down like a fog upon the institution, and the spirit of the convicts becomes one of sullen dejection or rebellion, balanced by a well-grounded fear of physical or mental pain. Since the Committee has, in this report, to deal with the system, and to comment upon the state and condition of the penitentiaries only for the purpose of indicating the respects in which the system seems to require alteration, its remarks must inevitably fail to do justice to the striking success of some wardens as administrators; the general tone of the report must be critical, not commendatory. From the lack, except in this paragraph, of commendatory remarks, it must not, however, be inferred that the Committee would not have found much greater opportunity for such remarks if its duty were merely to make a general report. The purpose of the proposals made is to bring the system generally up to, and by the removal of hampering restrictions even above, the level already attained in some penitentiaries visited.

Reasons for Present System and for its Alteration

7. The earliest attempts in the direction of a criminal procedure looked merely to the regulation of personal revenge. Later the State assumed the duty of avenging crime and forbade any direct intervention by those who

suffered from it; but the revengeful character of punishment has persisted and the penitentiary system still bears the ear-marks of its origin in a retribution by suffering for an offence against society. It is necessary to eliminate wholly the idea of vengeance, not on humanitarian grounds, or because of its painful consequences to the individual, but solely because of its stupidity and on grounds of common sense. When, about a century ago, conviction of crime was ordinarily followed by execution, society undoubtedly did itself some harm, but there was something to be said in favour of the universality of death as a punishment for all crimes on the ground that a large proportion of social nuisances were included among persons convicted of capital offences, and that of them society was well rid. Death as a punishment is, however, now in practice reserved for the crime of murder, and for it, as the ordinary punishment for the other crimes to which it used to apply, is substituted a term of imprisonment varying, so far as the penitentiaries are concerned, from two years to life. Almost all the inmates of the penitentiaries must before they die be returned to freedom, and each prisoner on his release will be called upon to live the ordinary life of a free man. Society therefore must inevitably suffer, if during his term a convict's spirit has been broken, if his habit of industry, if it existed, has been suppressed, and to the extent that his morals have been corrupted by prison associations. It is also true of course, that the convict himself suffers, but that consideration does not for the present purpose appear to be of primary importance. He has been guilty of a crime which, if he had lived a century ago, he would probably have expiated on the scaffold. That there should be suffering is inevitable, but it is ridiculous that society should store up trouble for its honest members, weaken itself, and involve itself in large and unnecessary expenditure.

General Principles of this Report

8. The proposals now made are based upon these considerations. It is unanimously agreed that the compulsory restriction of a human being's liberty of physical movement, and of his right to associate with those others with whom he desires association, together constitute a very severe and terrifying punishment. It is not suggested that this should be in any way alleviated, but it is proposed that, consistently with that restriction of movement and association, the system should be such as to constitute, in so far as possible, a training of the convicted person to retake, as he must, his position in society, to prevent his being deteriorated by the punishment he has undergone, and to enable him while undergoing it to fulfil his natural family obligations so far as they can be fulfilled by money and with due regard to practical considerations of administration.

9. Speaking generally therefore this report proposes: (1) a method of central administration such that the principal administrative ideas will not be those of repression and restriction, but rather those of development and cure; (2) such use of modern scientific resources for the examination and classification of convicts that their curable physical and mental illnesses may be overcome, and they themselves assigned to such work that its character and the conditions

under which it is carried out will, as far as circumstances permit, be in harmony with their individual characteristics; (3) the employment of all convicts on remunerative and productive labour and (4) prompt resort to the administrative power to mitigate sentences by release on parole in those cases which seem to call for intervention, and the exercise of this statutory power of mitigation on well understood principles.

10. To carry out the general purposes thus laid down, and in compliance with the directions given in the reference to the Committee, there follow specific recommendations proposing amendments to the Penitentiary Act (Part II, paras. 12-28), a new body of regulations thereunder (Part III paras. 29-58) and certain reports and instructions necessary for the purpose of effecting the results aimed at (Part IV paras. 59-79). The recommendations are severally prefaced by such explanatory memoranda as an understanding of the purpose of the proposal requires.

11. This report is by no means intended to be final and definitive. The Committee feels that it is quite impossible for it now to do more than indicate the general principles which ought to underlie the administration of the penitentiaries and outline the organization by which those principles can be put into operation. There will necessarily be a great many details which will require to be worked out administratively by the officers in constant touch with the administrative problems as they arise. Further regulations will doubtless be required in addition to those which are hereafter suggested by the Committee, but this report, in the opinion of the Committee, contains recommendations and other suggestions which, if adopted, will not only meet the difficult conditions of reorganization and reorientation but will, at the same time, be found sufficiently comprehensive to serve as a practical working arrangement under the new system.

PART II. STATUTORY PROVISIONS

General Administration

12. The present system of the general administration of the penitentiaries emphasizes, practically to the exclusion of every other consideration, the idea of disciplinary repression. In this respect it certainly requires modification. Efficient productive activity, scientific medical (particularly psychiatric and psychological) intervention, and the wise exercise of the power of mitigating sentences are from the social point of view of an importance quite equal to discipline, and the just proportionate importance of these aspects of the problem can, it appears, best be secured by the constitution of a Penitentiary Board on which each is properly represented and each has an equal right to be heard. For this purpose, and since, having regard to the Civil Service Act, certain of the present provisions of the Penitentiary Act on the subject of the appointment and duties of particular officers are no longer necessary or indeed operative, it is suggested that sections 14 to 26 of the Penitentiary Act should be repealed and the following sections inserted:—

“14. The Minister may, for the purpose of advising and assisting him in the administration of the penitentiaries, constitute a Penitentiary Board, of which the Minister, or alternatively the Deputy Minister, shall be Chairman, and of which the members shall be such officers of the Department of Justice as the Minister from time to time appoints, such officers of other departments as may be agreed upon by the Minister and the Minister of the other department concerned and such other persons as may, at the request of the Minister, act thereon without remuneration other than their necessary and reasonable travelling expenses.”

(2) The duties of the Board and the special duties, if any, of the individual members thereof may be defined by regulations under this Act.

15. The Minister may, by writing under his hand, confer upon any officer of the penitentiaries or upon any member of the Penitentiary Board:—

- (a) all the powers of a justice of the peace for any or every place in Canada;
- (b) the right of access to any or every penitentiary and to any or all books or records therein;
- (c) power to assume control of any penitentiary and to exercise all the powers of a warden in relation thereto.

and may in the same manner confer upon any person the power of a commissioner under Part II of the Inquiries Act in relation to any matter touching the management or administration of a penitentiary.

16. The powers and duties conferred and imposed upon the Superintendent of Penitentiaries by sections 27, 39, 40, and 56 shall be exercisable by the Penitentiary Board or such member thereof or other person, if any, as may be directed by the Minister.

13. From the discussion by the Committee with two of the members of the Civil Service Commission it appeared that the Commission had for two reasons no power to invite even the most distinguished individual in the country to accept an important post in the public service. These reasons were (1) that the Commission was restricted to making appointments only after "competitive examination," which is, it appears, inconsistent with an invitation to an individual, and (2) that it felt bound to promote from within the service unless the permanent head of the department concerned certified that there was no one already employed therein who was competent to perform the duties of the post. The Committee, while far from advocating appointments from considerations of party politics, is strongly of opinion that the appointment under the restrictions above outlined of the principal officers of the penitentiary administration is not likely to give good results. The type of man required for such a position is almost invariably already remuneratively employed either in or out of the service and, the better man he is, the less he will risk cheapening himself, or placing himself in possible antagonism to a new chief, by an unsuccessful application for the position; it would moreover be a very serious matter for a deputy minister to condemn every member of the existing staff as unsuitable for promotion. It is therefore suggested that a special provision should be inserted in the Penitentiary Act in the following terms:—

17. In making an appointment to any of the following positions in the Penitentiary Branch of the Department of Justice or at any penitentiary, namely, superintendent or inspector of penitentiaries, industrial director, medical director, warden, medical officer or chaplain, the Civil Service Commission shall act in the same manner in all respects as the head of a large business; it shall, apart from every party political consideration, select for appointment the person whom the Commission considers to have the highest qualifications in character, temperament, capacity and experience, and for the purpose of such selection shall make such inquiry and give such public notice as would ordinarily be made or given by a private employer, and offer the position to the person whom the Commission selects.

Hospital Treatment of Convicts

14. Some of the penitentiaries are without operating rooms and provisions are included in the regulations proposed later in this report for the removal of convicts to outside hospitals when this appears necessary. It seems advisable to declare that in these circumstances the hospital is to be considered as a penitentiary and for this purpose an addition to section 10 of the Act in the following terms is recommended:—

(c) every hospital to which any convict may be sent as a patient.

Suspension, Etc., of Officers

15. The terms of the present section 32 are in part unnecessary and in part inadequate. It is recommended that the section be repealed and the following substituted:—

32. The warden of any penitentiary may, if any officer or other person employed at the penitentiary, except the chaplains and the medical officer, is guilty of misconduct or of any breach of the regulations under this Act, suspend the offender from his employment, or, if the officer or other person is of or below the grade of senior prison guard or trade instructor, impose a fine upon him of any amount not exceeding one month's pay.

(2) The evidence on the hearing of any complaint against any officer or other person employed at a penitentiary for any act for which he might be suspended or fined as aforesaid shall be fully taken down in writing, and, if the person complained against is found guilty and suspended or fined, shall be transmitted forthwith by the warden to the Penitentiary Board, who shall, as soon as possible, consider the case and either affirm or refuse to affirm the decision of the warden.

(3) If the decision of the warden was that the person complained against should be suspended from his employment and such decision is affirmed, such person shall stand dismissed from the service of the penitentiary as from the date of his suspension, unless the Penitentiary Board otherwise directs.

(4) Any officer or servant of the penitentiary who is fined fifty dollars or more under this section may elect to leave the service of the penitentiary in lieu of the payment of such fine, and shall, if he so elects, be deemed to have resigned as of the date of the imposition of the fine or, if he has remained on duty pending the action of the Penitentiary Board, then as of the date of notice to him of the affirmance by the Penitentiary Board of the decision of the warden.

Allowances

16. The wording of the clause relating to uniform in the present Act, which occurs in the section relating to "perquisites," is not altogether satisfactory and the section itself is silent with regard to one perquisite which has been enjoyed for an indefinite period by the members of the staff of the penitentiaries and which, although in the opinion of the Committee open to grave objection, should, if it is to be continued, be expressly covered by statute. It is, therefore, suggested that clause (d) of section 35 should be repealed and either the first or both of the following two clauses added to that section.

(d) Any officer who is required to wear uniform may be supplied therewith under such conditions as are laid down by the regulations made under this Act.

(e) Any officer shall be entitled to purchase from the penitentiary for his personal use or the personal use of any member of his family wholly dependent upon him and resident with him, any article manufactured in the penitentiary at which he is employed, at a price to be fixed by the warden as being equal to the cost of the material consumed in the manufacture of the said article, the value of the convict labour required for its manufacture at the rate of two dollars a day, and in addition an amount equal to ten per cent of the cost of both material and labour, and such right shall further extend to the repair of any article which, if it was manufactured in the penitentiary, might have been bought under this clause and of which the repair can be conveniently and economically undertaken in the penitentiary.

Visitors

17. The present section with regard to privileged visitors, section 41, is not satisfactory in point of form and it is suggested that it should be repealed and the following substituted therefor:—

41. The Governor General of Canada, the lieutenant governor of any province of Canada, any member of the King's Privy Council for Canada, any member of the executive council of any of the provinces, any member of the Parliament of Canada, any judge of any court of record in Canada or in any of the provinces, and any other person having the written authority of the Minister in that behalf, shall have the right to visit any penitentiary at any time during which the penitentiary is open under the regulations made pursuant to this Act.

Form of Sentences

18. The Penitentiary Act defines the provinces or combination of provinces for which each penitentiary shall exist and section 42 directs that sentences shall be "to imprisonment in the penitentiary for the province in which the conviction takes place." In practice prisoners are, under other provisions of the Act, moved from penitentiary to penitentiary, and the proposals hereinafter contained with regard to classification of convicts make it advisable to alter the wording of this section. It is recommended that it be repealed and re-enacted in the following form:—

42. Everyone who is sentenced to imprisonment for life, or for a term of years not less than two, shall be sentenced to imprisonment in such penitentiary as the Minister may from time to time direct with respect to convicts sentenced in any province or any part of a province, or, in default of such direction, to imprisonment in the penitentiary nearest to the place of sentence.

Report by Judge at Trial

19. The Committee has been impressed by the absence of machinery for automatically bringing about a consideration of the propriety of mitigating sentences by release on parole. The machinery is put in motion at present by the convict or his friends, and the applications are considered as if action was exclusively a matter of grace to the individual instead of, as it should be, chiefly a question of the proper action to take in the general interest of society. The subject is perhaps worth considering not only from a penitentiary point of view but generally in relation to all penal institutions, but it is most pressing in relation to convicts sentenced for long terms; provincial institutions and short sentences are beyond the scope of the Committee's reference. The matter is further dealt with in the general recommendations which follow, but a statutory provision is necessary and it is therefore suggested that the following section should be inserted in the Penitentiaries Act as Section 42A:—

42A. Every judge or judicial officer who sentences any person to imprisonment in a penitentiary shall forthwith after passing sentence and in the presence of the convict complete a report in Form 1 in the Schedule to this Act, or in such amended form as may be authorized by the Minister, and shall transmit such report forthwith to the Minister or such officer as he may direct.

SCHEDULE

FORM 1.

REPORT

UNDER SECTION 43 OF THE PENITENTIARIES ACT, 1921, BY
ON

SENTENCED TO IMPRISONMENT FOR A TERM OF YEARS ON THE
..... DAY OF 19

(To be filled in by the judge or magistrate by whom any prisoner is sentenced to a term of imprisonment in a penitentiary. Where circumstances compel it a note will be made that no information is obtainable, the symbol "N.I.O." being used for this purpose.)

To the

Ottawa.

SIR,—I have the honour to make the following report on the above named:—

1. PARTICULARS OF PRISONER

- (a) Age stated (b) Apparent age
(c) Place of birth

2. CONDITIONS IN INFANCY

- (a) Brought up by parents?
(b) If not by whom?
(c) Character of home (good, bad or indifferent)
(d) Town or country?

3. CONDITIONS DURING ADOLESCENCE.

- (a) Attended school till what age?
(b) City or country?
(c) At or away from home?
(d) Character during adolescence?
(e) Previous criminal record, if any?

4. CONDITIONS AT PRESENT TIME

- (a) Apparent percentage of intelligence (maximum 100%)?
(b) Apparent percentage of strength of character (maximum 100%)?
(c) Married or single?
(d) Number of children, if any?
(e) Age and status of children?
(f) Domestic conditions of prisoner (good, bad or indifferent)?
(g) City or country?

5. PARTICULARS OF CRIME

I have marked below what was in my opinion the principal cause of the present crime with the number "1" and the subsidiary causes, so far as they had any application, in the order of their relative importance with the succeeding numbers.

- (a) Accidental combination of circumstances
(b) Bad influence of associates of prisoner
(c) Undisciplined emotions of prisoner
(d) Abnormality of prisoner
(e) Deliberate and malicious criminality of prisoner

6. RECOMMENDATION.

(a) I,* recommend that the question of releasing the prisoner on parole should be immediately considered.

(Signature)

(Office)

Date

Place

*Insert "do not" if necessary.

Transfer of Convicts

20. If a proper system of the classification of convicts is to be effectively carried out, their transfer from one institution to another must be readily possible, and it is therefore suggested that the following subsection should be added to section 47. The subject is further dealt with in the regulations which follow

“(5) The powers by this section conferred upon the Minister may, by writing under his hand or by regulation under this Act, be delegated to such other member of the Penitentiary Board or to such warden, described by name or by reference to his office, as to him seems meet. Such delegation may be made to one or several persons, and may be subject to such conditions as the Minister may in any such delegation impose.”

Insane Prisoners

21. The existing provisions on the subject of insane prisoners are not satisfactory and indicate an obsolete and unscientific view of mental diseases. In their visits to the penitentiaries nothing has more powerfully impressed the Committee than the inefficiency of the present practice, which is more fully dealt with below, and no amendment proposed to the Penitentiary Act is, in the Committee's opinion, more important than that now recommended, which consists in the repeal of sections 53-60 inclusive, and the substitution thereof of the following provisions:—

53. A convict who is certified by the medical officer of any penitentiary as mentally defective or mentally disturbed to a degree rendering it unreasonable to compel such convict to conform to the penitentiary discipline, or likely that his condition will be aggravated by his being so compelled, may be dealt with as follows:—

- (a) If such convict is so certified within three months from his arrival at the penitentiary, and it is further certified that the condition existed at the time the convict was so received, he may, on due notice to the attorney general of the province concerned, be removed to any gaol or other place of confinement in which he was confined while awaiting, or after, trial for the offence for which he was sentenced, or to any other place to which he may be directed to be removed by the lieutenant governor of such province.
- (b) If no such certificate as is described in the last preceding clause is given within three months from the arrival of the convict at a penitentiary, proper provision shall be made for his proper care and treatment either by his removal to a provincial institution pursuant to any arrangement in force with the lieutenant governor of the province concerned, or to a hospital for mentally defective or mentally disturbed convicts administered as a penitentiary or part of a penitentiary.
- (c) If any convict removed as described in the last preceding clause is, before the expiration of the term of his sentence, certified to have so far recovered as to be fit to complete the same in a penitentiary, he may, upon the decision of the Penitentiary Board that his mental or emotional experience and the other circumstances of the case do not justify the mitigation or remission of his sentence, and with the approval of the Minister, be returned to the penitentiary and required to complete his sentence accordingly.

- (d) If at the termination of the sentence of any convict, he is under treatment at a mental hospital administered as a penitentiary or part of a penitentiary and is certified by the medical officer in charge thereof as unfit for release, the lieutenant governor of the province concerned shall be notified and the convict delivered into such custody as the said lieutenant governor may direct, there to remain subject to the same conditions in all respects as if he had been committed to such custody under the laws of the province.

54. Any convict found on his arrival at a penitentiary to be suffering from any notifiable infectious or contagious disease may be refused admission pending his recovery, and any convict so suffering at the end of the term of his imprisonment in a penitentiary may be detained in hospital therein until he can be released without danger to the public.

55. The regulations made under this Act may authorize the employment, for the examination, treatment or care of any convict who is seriously ill, either mentally or physically, of such specialists and nurses as are necessary in the circumstances, and the medical supervision of any penitentiary may be entrusted to the faculty of medicine of any recognized university.

Women's Penitentiaries

22. Women convicts are now included in the penitentiary population only of the penitentiaries at Kingston, Ont., and Dorchester, N.B., which have respectively accommodation for 36 and 21 female convicts. At each the women's building is included within the penitentiary wall, and a matron is the principal female officer in charge. These arrangements are unsatisfactory. One of the recognized elements of imprisonment is the deprivation of the convict of opportunities for association with the opposite sex, and altogether apart from the possibility of irregularities, an arrangement is open to the gravest objection which brings this deprivation constantly to the minds of both male and female convicts by the existence within constant view of an institution devoted to the confinement of the opposite sex. For the purpose of avoiding this objectionable arrangement, it is necessary to reframe section 63 of the Penitentiary Act. That now directs that female convicts shall be secluded in a separate ward under the charge of a matron, and prevents the establishment of a separate penitentiary for them. The Committee recommends the repeal of that section and its enactment in the following form:—

63. Female convicts shall be secluded from male convicts, either in a separate ward in a penitentiary in which both male and female convicts are confined, or in a separate institution; any separate ward shall be under the charge of a matron and any separate institution under the charge of a female warden with, in either case, such number of female officers as may be required.

Routine Remission of Sentences

23. Continuing the practice which in Canada extends back to the Penitentiary Act of 1868, section 64 of the present Act authorizes remission of sentences according to the conduct and industry of the convicts. Although a system of remission of the kind contemplated by the statute appears to be in force in

each penitentiary, its operation is certainly not well understood by wardens, and in its details it varies from institution to institution. The regulations on the subject are too vague and the statutory provision is overloaded with unnecessary particulars. It is recommended that the latter be repealed and the following section substituted:—

64. Provision may be made by regulations under this Act for the remission of the sentence of any convict whose conduct and industry justify the shortening of his sentence, but no such remission shall exceed six days for each elapsed month of his term of imprisonment until the convict has seventy-two days remission to his credit, or ten days for each elapsed month of his term thereafter.

Distribution to Convicts of Act and Regulations

24. Section 65 of the Act directs the preparation of "a list of prison offences." The reason for this provision is doubtless to ensure that convicts are properly informed as to the rules which govern their daily conduct, but it is not adequate for this purpose, since it does not require that they should receive any information as to their privileges or the warden's power of punishment. The Committee therefore recommends the repeal of the section and its re-enactment in the following form:—

65. A copy of this Act and of any regulations made thereunder, so far as they affect his rights, treatment or conduct, shall be supplied to every convict on his arrival at a penitentiary.

Employment of Convicts

25. The Penitentiary Act has since 1868 directed that convicts be kept at "hard labour." This is not now being done for the simple reason that, the contract system having most properly been abolished, no useful work can be provided in sufficient quantity, except at penitentiaries still under construction. Humanitarian opinion very properly denounces the stone-pile, which, bad as it undoubtedly is, is perhaps better than complete idleness for any man; it will not often either kill him or render him mentally unsound, as such idleness in confinement almost certainly will. Instead, therefore, of a penitentiary sentence developing the habit of industry, it develops either that of idleness, or, more probably, the much more dangerous habit of going through the motions of work without effecting any result. In the penitentiaries there is a convict population of nearly 2,000. They cost almost \$1,000,000 a year to maintain and guard, although, properly employed, the convicts could not only make the penitentiaries self-sustaining, but earn something beyond. That they should not have a chance to do so is due not so much to intentional cruelty as to traditional prejudice, against which every penitentiary official inveighs. The results are not only a serious waste of public money, but also a grave menace to society, since the worst of habits are inculcated in those who have once failed in their social obligations, but whom, practically without exception, the State must, as their sentences expire, release to follow as free men the habits they have learned in prison. Of 1,930 convicts on March 31, 1920, 305 were under the age of 20 years and 435 more under 25, so that these evil habits are

being developed by the State among its younger and more easily influenced citizens almost, it would seem, in order that they might become chronic centres of social infection. It is sometimes suggested that to correct this condition will adversely affect the free worker. Leaving aside the question of the degree to which his chance of happiness is diminished by the possibility that he himself, his son or his brother may become, by evil chance, the direct or indirect victim of this pernicious system, the suggestion cannot be supported. The whole number of skilled and unskilled manual workers in Canada is about 1,500,000 and it is sheer nonsense to imagine that, even in times of widespread unemployment, the organization of the penitentiaries so as to productively employ their 2,000 convicts would perceptibly affect general conditions. The Committee, therefore, most emphatically recommends statutory provision to provide productive labour for all convicts. Such provision need not extend to any work except for what is known as "state use" and can, in Canada, not extend any compulsion beyond the federal service, but the evidence taken by the Committee has satisfied it that manufacturers within this limitation will afford much more than ample scope for all the industry and activity which the penitentiaries can put forth. The provision might be in the following form:—

65A. The public money of Canada shall not be expended in the purchase of any goods which can conveniently be manufactured or produced at a penitentiary and delivered where they are required for the public service with economy to Canada, having regard to the provisions of subsection 2 of this section and to the provisions of this Act on the subject of the remuneration of convicts for their labour.

(2) No charge shall be made by the Department of Justice (Penitentiary Branch) against any department of the Government of Canada for the labour of any convicts or penitentiary officers entering into the manufacture or production of any goods in the penitentiaries.

Remuneration of Convicts

26. The mere provision of work is not, in the opinion of the Committee, sufficient. That the heaviest penalty for a crime is paid not by the criminal but by his dependents has been chiefly emphasized before the Committee, not by philanthropists and charitable workers, but by judicial, police and penitentiary officers of long standing. Their views are based upon the unfortunate and expensive social consequences of the pauperization of decent women and children, upon the destruction of the convict's sole anchor holding him to decency of conduct after discharge by his being, during his term, deserted by his wife for some one better able to support her, and upon the frequent inevitability of a return to crime immediately upon his release of an ex-convict turned out into a society from which he has certainly been absent for years and perhaps for decades with five or ten dollars and a railway ticket to the place at which he was sentenced. If anything but evil is to follow from punishment by imprisonment for long terms, it is, in the opinion of the Committee, essential that such provision should be made as will allow the convict to earn at least something toward the support of his dependents during his confinement or of himself after his release. The most elaborate and carefully worked out plans for this purpose which have been brought to a point of actual trial provide for the payment to every convict

of a wage for the particular work on which he is employed corresponding with the wage paid for similar work outside, and varying as this varies upwards or downwards. The Committee has not been convinced that this plan is workable. It assumes, untruly in the Committee's opinion, that conditions within a penitentiary can be made to coincide with those in the outside world and involves a complication of scales, rates and minima under the burden of which, in penitentiaries so widely separated as those in Canada, failure would be inevitable. The plan proposed by the Committee is designed to avoid the complication of penitentiary administration with the course of markets and with trading. It contemplates manufacture only for the purposes of the Dominion Government without other payments between departments than for the material actually consumed, thus reducing the total budget and restricting all considerations of the value of prison labour exclusively to the Penitentiary Branch. The subject is further dealt with below in the proposed regulations, but to carry out the plan a statutory provision is needed and this might be in the following terms:—

65b. There shall be allotted quarterly in the manner hereinafter provided to or for the benefit of the convicts in each penitentiary an amount at least equal to one-third of the labour value of the work done by the inmates thereof during the next preceding quarter and, when the remaining two-thirds amount to more than the whole cost of maintaining the penitentiary, then the excess of the labour value beyond such cost.

65c. The labour value for the purpose of the last preceding section shall be the sum of the following:—

- (a) The fair market value at each penitentiary of all goods manufactured thereat for any department of Government, including goods manufactured for the Penitentiary Branch of the Department of Justice, ascertained quarterly or oftener by a valuer or valuers appointed by the Governor in Council;
- (b) The fair value of all work done by the inmates of any penitentiary on any public work, including the construction of buildings or improvements in or about the penitentiary and for its benefit, ascertained by or under the direction of the Department of Public Works quarterly or oftener as may be directed by the Governor in Council;
- (c) The fair value at each penitentiary of any farm products produced thereat and used elsewhere, ascertained quarterly or oftener by or under the direction of the Penitentiary Board.
- (d) The price obtained for any goods or products sold to the public, but no goods or products except hay, grains, roots, or large fruits shall be sold without the express approval of the Minister, which may be given only when such goods or products have accidentally become surplus to requirements, and
- (e) The price charged to any officer or servant employed at the penitentiary for goods made or repaired thereat for such officer or servant under the authority of this Act;

less the sum of the following:—

- (a) The cost of materials used in the construction or improvement of any public work or the manufacture or production of the goods or produce of which the value is directed to be ascertained as aforesaid.

- (b) The payments actually paid for the services of those members of the staff of the penitentiary employed to direct the manufacture or production,
 - (c) An amount equal to eight per cent (8%) per annum on capital cost of the penitentiary buildings, grounds, machinery and plant in so far as such cost was incurred for the equipment of the penitentiary to manufacture or produce goods, but excluding the expense incurred for other purposes including lodging, security and health, and
 - (d) The share of the penitentiary in proportion to its average daily working population during the preceding financial year, of the whole amount payable during the quarter by way of compensation for injuries sustained by convicts in any of the penitentiaries, the amount of such compensation and the character of the injuries for which it is payable being determined by reference to the Workman's Compensation Act of the Province of Ontario.
- (2) No allowance shall be made for farm produce grown or raised at any penitentiary and used thereat, and no allowance or deduction shall be made for food purchased, produced, raised or prepared at any penitentiary or for work done in the course of the routine repair and upkeep of buildings, grounds, machinery or plant.

65d. The distribution among the convicts at each penitentiary of their allotted share of the labour value of the work done by them thereat as ascertained under this section shall be made as directed by regulations under this Act.

Trafficking by Guards

27. Section 67 of the Penitentiary Act provides for a penalty "not exceeding \$100 or imprisonment with hard labour for a term not exceeding three months," upon an officer or servant of any penitentiary or any other person who is guilty of trafficking with convicts or conniving with them to break the penitentiary rules in any of eight ways separately described in the section. The offence of trafficking is much more serious in a guard who in trafficking is committing a direct breach of duty and destroying the efficiency of the penitentiary administration than in some member of the public who stands in no special relation to the convicts generally and has no particular duty in relation to them. The Committee is of opinion that the offence of trafficking when committed by an officer of a penitentiary should be punishable with much greater severity than the same offence committed by another. The section should also contain a provision imposing upon the defendant the onus of proving by way of defence that the act proved against him was not in fact contrary to the penitentiary regulations. It is, therefore, recommended that the last three lines of section 67 should be repealed and that the section should conclude and have added to it a subsection in the terms following:—

shall, if an officer or servant of a penitentiary, be guilty of an indictable offence and liable to imprisonment for five years, and if not an officer or servant of a penitentiary be liable, on summary conviction, to a penalty not exceeding \$100 or imprisonment with hard labour for a term not exceeding three months.

(2) In any proceeding under this section the onus shall be upon the defendant to prove that any article or thing given, conveyed, left, taken, received, carried, or brought, was allowed to be so by the rules of the penitentiary or gaol, or that any convict employed on the work for the personal benefit of the defendant or any other person, was so employed with proper authority.

Allowances on Discharge

28. If the proposals the Committee has made for the payment of convicts are adopted, or if any alternative arrangements are made for that purpose, the terms of section 72(6-7) will not be satisfactory, and it is therefore suggested that these subsections should be repealed, and that for them should be substituted provisions as set out below which will operate satisfactorily even if the remuneration of prisoners is not immediately practicable. These substituted provisions provide for the issue to convicts on discharge of all the clothing necessary. The present provisions confine the issue too narrowly.

(6) Every convict shall, upon his release from a penitentiary, be entitled to be issued with transportation by public carriage to the place at which he was sentenced, if he intends to go so far, or, if not, to the place to which he intends to go.

(7) No convict shall, unless he so desires, be released from a penitentiary without proper personal equipment, including a suit of clothes, boots, hat, adequate underclothing, handkerchief, nightshirt, toothbrush, hair brush, comb, and if the season so requires an overcoat and gloves or without, in addition, at least the sum of five dollars in money; the clothing shall not be recognizably of prison origin, and the prison marks, if any, on the other articles shall be removed.

7a) In so far as, at the time of his release, the convict's clothing which he brought with him to the penitentiary and the articles in use by him immediately before his discharge are insufficient properly to equip him with the clothing and articles aforesaid, and he has not command of sufficient money, earned in the penitentiary, to buy such additional clothing and articles as he considers necessary at their cost of manufacture plus ten per cent and to leave him at least the sum of five dollars remaining, he shall be supplied at the public expense with such additional clothing, articles and money as may be necessary to supply the deficiency, and the warden may, if, having regard to the season of the year and the probability of the convict not being readily to secure employment or support, he considers it necessary, increase the sum which the convict receives in money to an amount not exceeding twenty-five dollars.

PART III—REGULATIONS

General

29. The Committee recommends that regulations be made under the Penitentiary Act as set out in the following paragraphs. Where the inspiration for the proposed regulation is found in the Penitentiary Regulations of 1899, the fact is indicated by a reference appended to the regulation proposed.

30. It is in the opinion of the Committee advisable that the regulations should contain a general statement of the object to be aimed at in the administration of the penitentiaries and it is suggested that this might be in the following form:—

General

1. The object of the maintenance of the penitentiaries is to punish offenders against the laws by restricting their liberty of movement and of association, that is by preventing them from going where they want to go and from choosing their own associates. That is in itself a heavy punishment. It is no part of the purpose of imprisonment that the spirit of prisoners should be broken or that they should, when they have completed their terms, as almost all of them sooner or later will, be worse citizens by reason of their punishment. On the contrary they should be better and less likely than when they entered the penitentiary to cause suffering or loss to their fellow citizens by crime. For the sake of society even more than for the sake of the prisoners every means consistent with the necessary restriction of liberty of movement and association should be taken to make this true of all prisoners. Their physical and mental ills should if possible be cured, their efficiency increased and their habits improved. Every officer having any duties in relation to the penitentiaries or the care of convicts will govern his conduct accordingly and failure to do so will be dealt with as a breach of these regulations.

31. Section 65 of the Penitentiaries Act in the form proposed by the Committee earlier in this report requires convicts to be supplied with copies of the Penitentiary Act and of the regulations thereunder. The Act and regulations should, of course, also be distributed to the officers of the penitentiaries and the Committee recommends the following regulation on the subject:—

2. The Penitentiary Act and these regulations, with any general instructions issued to the Parole Officer, shall be printed in such form as the Penitentiary Board may direct, and a copy thereof shall be supplied to every officer and other person employed in a penitentiary, and also to every convict. Every literate person to whom the said Act and regulations are so supplied shall be responsible for familiarizing himself with them, and, if he is in the public service, for ensuring that every person subordinate to him has received a copy and is familiar with the provisions it contains. Arrangements shall be made for instructing illiterate convicts with respect to them.

Central Administration

32. It is recommended that the Penitentiary Board might consist in addition to the Chairman of the following: the Superintendent as Vice-Chairman, the Industrial Director, the Purchasing Agent, the Medical Director, the Parole Officer, and the senior of the two inspectors, or, in his absence, the junior. If that organization were approved, the duties of the Board and, so far as it is necessary, the duties of the individual members might be stated in regulations as follows:—

Penitentiary Board.

3. It shall be the duty of the Penitentiary Board
 - (a) To meet at such times and places as may be directed by the Chairman.
 - (b) To cause sufficient minutes to be kept of its discussions and decisions.
 - (c) To consider any subject relating to the conduct and administration of the penitentiaries or to the condition or conduct of any officer or inmate of any penitentiary that may be brought before it.
 - (d) To receive routine and special reports of the inspectors and of the wardens and other officers of the penitentiaries and to transmit to the Chairman all reports of inspectors and such other reports and communications relating to the penitentiaries or any officer or inmate thereof as appear to require to be brought to his special attention.
 - (e) To be responsible for the proper conduct of the penitentiaries, for their being maintained in proper repair, for their being provided with adequate and efficient staffs, for the health both mental and physical, of the inmates, for the proper organization and distribution of industries, and for the hygienic and efficient condition of all accommodation and equipment used for industrial, agricultural or domestic purposes.
 - (f) To define the times at which reports are to be made by penitentiary officers and the nature of such reports respectively, and to prescribe the forms to be used for all purposes in relation to the penitentiary administration.
 - (g) To make a special report to the Chairman of any matter requiring his special attention and to make, on or before the first day of January in each year, a general report on the state, condition and management of the penitentiaries during the preceding year, with such suggestions for improvement as the Board may think fit.
4. A quorum of the Board shall be four-fifths of the members thereof who at the time of any meeting are present in Ottawa and fit for duty.
5. Any member of the Board may make to the Chairman any report he considers it advisable to make, but no such report shall be so made until the same has been laid before the Board and the Board has refused to transmit it as the report of the Board.

6. Subject to any special written directions that may be given by the Chairman from time to time, special duties shall be performed by the members of the Board as follows:—

- (a) The Vice-Chairman shall be responsible for the co-ordination of the work of the members of the Board, for ensuring that no duties are left undistributed and that all matters involving the co-operation of two or more members of the Board are brought before the Board for consideration, for seeing that the Chairman is kept fully informed of the activities of the Board and of its members, that the meetings of the Board are regularly held, that proper records are kept of the proceedings of the Board, that the office routine of the Penitentiary Branch is efficiently and regularly carried on, and that the clerical staff is sufficient and attentive to its duties. The Vice-Chairman shall also receive all reports and communications from the wardens of the penitentiaries (except on the subject of parole) and bring them to the attention of the member of the Board concerned. He may, in urgent matters, when a meeting of the Board cannot be held, issue such interim instructions as may be necessary on any matter not falling within the scope of the duties specifically assigned to any other member of the Board.
- (b) The Industrial Director shall be responsible for the location and direction of the industries (including agriculture) carried on at the penitentiaries, for the proper organization, equipment and efficient operation of such industries, for the arrangements for the supply to other departments of the products which they respectively require, including both the obtaining of orders for such goods and the delivery thereof when manufactured, and generally for the industrial management of the convicts allotted to productive labour.
- (c) The Purchasing Agent shall, in collaboration with the superintendent, the industrial director and the medical director respectively, determine the quantities and kinds of goods which will from time to time be likely to be required, or are from time to time in fact required, for the administration of the penitentiaries, for the equipment of the industries carried on therein, for the raw materials for such industries, and for the medical health service of the penitentiaries. He shall, after such communication directly with the storekeeper at each penitentiary as circumstances require, determine the purchases which, in his opinion, ought to be made and submit the same to the Penitentiary Board; when such purchases have been approved by the Penitentiary Board, he shall carry out the purchase of the said goods subject to any general directions which may be given by statute or by order in council with relation to purchases for the public service. He shall also be responsible for the certification of invoices and for the correspondence of the goods invoiced to those which have been ordered.
- (d) The Parole Officer shall receive and promptly consider all reports upon convicts who have been sentenced to imprisonment in a penitentiary and all applications for the issue of licenses under the Ticket of Leave Act. He shall institute and direct all inquiries necessary to secure all relevant information and shall transmit to the Minister his recommendations for such action as seems advisable in accordance with his general instructions.

On matters relating to his special duties he may communicate directly with the wardens of the penitentiaries.

- (e) The Medical Director shall receive the reports of the medical officers at the several penitentiaries, with whom, on the subject of their special duties, he may communicate directly. He shall be responsible for the arrangements for and the efficiency of the medical service at each penitentiary and shall report to the Board all cases which require special action by the Board or the Minister on account of the mental or physical condition of any officer or convict.
- (f) Each of the inspectors shall from time to time inspect the penitentiaries allotted to him by the Board and shall report in writing to the Board the result of each such inspection, commenting upon any matter which in his opinion calls for comment and particularly upon any practice which appears not to be sufficiently covered by clear and easily intelligible standing orders or to be disadvantageous or in any respect contrary to these regulations. On any matter which appears to an inspector to call for immediate action, his report to the Board may be by telegram.

Duties of Warden

33. The Penitentiary Act declares that the warden is to be the chief executive officer at each penitentiary and as such to "have the entire executive control and management of all its concerns," but the following additional provisions relating to the general administration of each penitentiary are recommended.

Warden's Duties and Orders

- 7. The warden of every penitentiary shall be responsible—
 - (a) That these regulations are faithfully observed and that the duties of all officers of the penitentiary are faithfully and efficiently carried out;
 - (b) That all the records and correspondence of the penitentiary are properly maintained, cared for and dealt with;
 - (c) That the penitentiary premises and buildings are inspected at fixed intervals and are maintained in a good state of repair and in proper condition to ensure the safe custody and health of the convicts;
 - (d) That the penitentiary grounds, both within and without the walls, are properly cared for, and that as much of the ground within the wall as circumstances permit is laid out in grass and flowers;
 - (e) That all supplies are in accordance with contract and are of good quality and in good condition;
 - (f) That all returns and reports are promptly and accurately made;
 - (g) That every convict receives food sufficient in amount, properly cooked and palatably served in proper condition;
 - (h) That all proper correspondence by and to convicts is promptly delivered or forwarded;
 - (i) That all complaints by convicts are regularly and sympathetically heard, that all wrongs are promptly redressed, and that every effort is made to satisfy any convict whose prayer cannot be granted of the necessity for its denial;
 - (j) That the Penitentiary Board is promptly advised of any occurrence which might interest or affect the action of any of its members; and

- (k) That the purpose and intent of these regulations are given full and complete effect.

8. For the purpose of carrying out the duties imposed upon him by section 27 of the Penitentiary Act and of securing compliance with these regulations, the warden may make such standing orders for the penitentiary as he may consider desirable and as are not inconsistent with the Act or these regulations. All such orders shall be entered in an Order Book and copies thereof and of any amendments thereto shall be forwarded to the Penitentiary Board. After any standing order has been notified to any person as hereinafter provided, it shall have the same effect as if included in these regulations, but the Penitentiary Board may at any time direct the amendment or rescission of any such order and the same shall be amended or rescinded accordingly. *See R. 40.*

9. Standing orders shall, among other things, provide for the hours of opening and closing the prison, roll calls of officers and counting of convicts, inspections for security, cleanliness, and efficiency, the custody of keys, general and fire alarms, the ordinary routine of the prison and any special variation therefrom, the use of tobacco, the proper care of the property of the penitentiary, and the constitution of boards of survey to authorize the destruction or sale of property.

10. Any amendment to these regulations shall be entered in the order book, and any such amendment or any addition to or amendment of standing orders made by the warden shall be notified in writing to each person on the staff of the penitentiary affected thereby. A note or entry shall be made in the order book showing the persons to whom every amendment or addition has been so notified. Such notification and entry may be sufficiently given and such entry made by the signature by any person of the order book opposite such addition or amendment, or the notice may be given by the posting during at least seven days of a copy of the addition or amendment on a notice board to which all persons affected have ready access, and the entry made by a note of the fact of such posting. Notice of any such addition or amendment affecting the convicts shall be given by the reading thereof on at least two occasions to the convicts assembled all together or in groups for the purpose, and a copy of any amendment to the Penitentiary Act or to these regulations shall be furnished to each convict.

11. An hour shall be fixed by standing order at which the warden will daily hear any requests or complaints by, or any charges against convicts, and the warden shall daily sit accordingly if there are any such requests, complaints, or charges to be heard. The hour fixed, shall, unless there is good reason to the contrary, to be recorded in standing orders, not be such as to interfere with the labour of the convicts.

12. The warden shall in all cases notify the officer acting as deputy warden if he leaves the penitentiary, and if his absence is to exceed six hours, an entry shall before his departure be made in the order book of the hour thereof and upon his return of the fact and of the hour at which he returns. Both entries shall be signed by the warden and the officer acting as his deputy. No warden shall absent himself from the penitentiary for a longer period than thirty-six hours without the leave of the Penitentiary Board. *See R. 18.*

Duties of Other Officers

34. The existing regulations contain groups of short paragraphs dealing with certain specific duties of the principal and some of the subordinate officers of the penitentiary. The duties specifically directed to be performed by each vary very widely in importance, and since, in their performance, these officers

are all subject to the general direction of the warden, no useful purpose would appear to be served by an attempt to state in great detail in general regulations what are the specific duties of each officer. The omission of any duty from the list gives opportunity for the omission to perform it, and the conditions of different penitentiaries vary so widely that there must necessarily, and should in any event, be a wide latitude given to the warden in the distribution and definition of minor duties. The Committee has consequently thought it better to omit detailed specifications of the duties of each officer and to deal only with the general principles of the organization leaving the details for each penitentiary to be worked out by the warden by standing order. The following regulations are drawn accordingly:—

Duties of Medical Officer

13. The medical officer of each penitentiary shall be responsible for the maintenance of the convict population in mental and bodily health, and for their proper equipment with spectacles, trusses, dentures or other appliances necessary to enable them to exert their full capacity. He may, on subjects relating to these duties, communicate directly with the medical director, and it shall be his duty to bring to the attention of the medical director any matter which, in his opinion, is adversely affecting or likely adversely to affect the health of the convict population of the penitentiary generally, or any part thereof, or any individual included therein.

14. The medical officer shall also be responsible for the periodical inspection and examination of every convict with a view to the correction, apart from complaint by the convict concerned, of any condition which might by neglect become aggravated, and for the adequacy of the hospital arrangements, including the equipment of the operating room, if any, in the penitentiary. He may be required by the Penitentiary Board to attend the officers and employees of the penitentiary without charge.

15. The medical officer shall have full control of all convicts whose condition requires his attention, subject only to such arrangements as may, with his approval, be made by the warden for their safe custody. Convicts who are ill shall be dealt with as patients rather than as prisoners and their diet and treatment shall be such in every respect as the medical officer directs.

16. Unless it is necessary to save his life or to prevent permanent injury to him, no operation shall be performed on any convict without his written consent, and no convict, shall, without his written consent, be required to undergo any examination or treatment involving suffering unless, in the opinion of the medical officer, to be recorded in writing, with his reasons therefor, such examination is necessary to determine the nature of a complaint with substantially affects the mental or physical capacity of the convict, or such treatment is necessary and almost certain to cure such a complaint.

17. In any case in which the mental or physical ill-health of a convict arises from a cause difficult of diagnosis, or in which the medical officer is of opinion that the services of a consultant or specialist would be of assistance in applying treatment, he may, with the concurrence of either the warden or the Penitentiary Board, employ a consultant or specialist, whether medical, surgical, dental or otherwise.

18. The medical officer may also, with the like concurrence, if any convict is, or is likely to become, so ill that his chances of recovery or quick recovery would be improved by his treatment in a general or special hospital outside the prison walls, or is, in his opinion, about to die, direct the removal of such convict to such hospital, and it shall not be necessary to detail any special guard to accompany him unless the warden considers the presence of such guard necessary for his safe custody.

19. The medical officer shall employ one or two special attendants trained in nursing duties for any convict whose condition is such that his chances of recovery or quick recovery would be improved by such attendance, and such nurse or nurses may be employed during such time as the Penitentiary Board may permit upon consideration of the report of the medical officer as to the action he has taken and the reasons therefor.

20. The medical officer shall be responsible for the adequacy of the arrangements made for isolating, wholly or partially, as the case may require, any convict who is suffering from any infectious or contagious disease, and for the protection of the remaining convicts and the staff of the penitentiary from infection or contagion.

Duties of Chaplains

21. Each chaplain at a penitentiary shall minister only to such of the convicts imprisoned therein as are assigned to him by the warden according to the election of the convict concerned, and shall not in any way attempt to convert to his faith any convict not so assigned or any convict so assigned who indicates to such chaplain his desire not to be converted. Notwithstanding any such desire as is last mentioned by any convict, the chaplain concerned shall do his utmost for the spiritual and moral welfare of such convict, as well as of all others committed to his care, and for that purpose shall have access to any part of the penitentiary, including both shops and cells, at any time of the day or night.

35. The present industrial organization at the penitentiaries is not, in the Committee's opinion, wholly satisfactory. There is at each a chief trade instructor, but this officer is really the building foreman, and his jurisdiction in relation to other industries ordinarily extends no further than seeing that the materials which are to go into the buildings are of the character he requires. It is, in the Committee's opinion, important that at any penitentiary at which there are established more than three industries there should be a single officer directly responsible for the conduct of them all. The following regulation is drawn accordingly:—

Disciplinary and Industrial Officers

22. The officers of every penitentiary who have direct charge of convicts shall be of two classes, namely, disciplinary officers and industrial officers. Subject to the direction of the warden, disciplinary officers shall report to and be assigned for duty by the deputy warden and industrial officers shall report to and be assigned for duty by the industrial supervisor, if any, or if not, by the chief industrial officer, who may, on all subjects connected with the organization of the industries in the penitentiary, communicate directly with the industrial director and shall be responsible, under the general instructions of the warden, for the efficient management of all the industries in the penitentiary and the proper employment of all convicts except those engaged in the unskilled

domestic service of the institution. If a disciplinary officer is present a trade instructor shall not be primarily responsible for the conduct of convicts, but shall, so far as he can consistently with the efficient performance of his trade duties, assist the disciplinary officer in the maintenance of discipline.

Officers Generally

23. All the other officers at any penitentiary shall perform the duties incident to their respective offices subject to such definition as the warden may make by standing order.

25. Any member of the staff of a penitentiary who is unable through illness or otherwise to attend for duty shall forthwith give notice of the fact and the reason therefor in order that provision may be made for the performance of his duties. No officer on duty shall leave his post on account of illness or otherwise until relieved by his superior officer. *See Rs. 126, 132.*

26. No officer shall—

- (a) Come physically into contact with a convict, except to prevent an escape or revolt, or in self-defence. (*See Rule 136.*)
- (b) Make known any of the affairs of the penitentiary to any person not upon its staff or, outside the penitentiary, recognize or identify any person as having been a convict. (*See Rules 129 and 142.*)
- (c) Fail to report to the warden and dereliction of duty on the part of any other officer. (*See Rule 134.*)

27. Every officer employed at any penitentiary, shall, upon his permanent appointment, be entitled to be issued with a uniform and cap of a pattern approved of by the Penitentiary Board. He shall also be entitled, upon permanent appointment and every second year thereafter, to be issued with an overcoat of a pattern approved as aforesaid. Every officer to whom an issue is made under this paragraph, or who is so required by the warden, shall wear his uniform at all times when on duty.

Security

28. No person shall be permitted to enter the penitentiary unless it appears that he is lawfully entitled to do so. No convict shall be allowed to pass out of the penitentiary except on the written order of the warden or under the charge of an officer, and no other person shall be permitted to pass out of the penitentiary until the gatekeeper is satisfied that he has been properly admitted. *See Rules 119, 120.*

29. No goods shall be allowed to enter the penitentiary without examination and none shall be permitted to be taken out without the written authority of the warden or of such other officer as he may by standing order appoint. *See Rules 121, 122.*

30. A record shall be kept of all persons (other than officers or convicts) entering or leaving the penitentiary, showing the hour at which each did so and the business or authority justifying his being allowed to enter or leave. All passes for persons or goods shall be returned to the warden by the gatekeeper before he goes off duty.

31. When the penitentiary has an inner and an outer set of gates, both shall not be permitted to be open at the same time. *See R. 119.*

Classification

36. The Committee has had very vehemently impressed upon it from every quarter the importance of the classification of convicts. A variety of bases of classification has been advocated. The importance of segregating the mentally defective and mentally disturbed can be granted without discussion, but in relation to the classification of the remainder there have been suggested to the Committee five definite, but when only a total of 2,000 convicts are to be considered, mutually inconsistent plans based respectively upon classification by reference to (1) prison conduct, (2) the number of convictions, (3) the moral turpitude of the crime, (4) the age, and (5) the industrial capacity of the convict. If the number of convicts with which it was necessary to deal were twenty times as great as it in fact is, all these bases of classification might perhaps be given their full weight, and a large number of different institutions organized to deal with each individual according to the combination of all these elements, but for practical purposes in Canada it is necessary to consider two separate areas; the distance between east and west is too great to permit of the classification even of the whole 2,000 convicts as one group, and the one-third in the western provinces and the remaining two-thirds in those of eastern Canada must be separately dealt with. After anxious consideration the Committee has decided to recommend the adoption of the plan of primary classification by reference to the convict's industrial capacity, and the organization of the penitentiaries accordingly. This conclusion has been arrived at partly by a process of exclusion and partly by the selection of this basis of classification as that most likely to secure the best social results. Classification by reference to prison conduct necessarily involves the accumulation of newly sentenced convicts for observation during long periods in a single institution with a mixed population and under conditions necessarily ill-adapted to their effective employment at the work for which each is individually suited. An attempt to classify by reference to the number of convictions—what are called, often untruly, "first offenders" being dealt with differently from "repeaters"—leads to ridiculous results in practice. The Committee has made an attempt to apply the principle to a number of cases which have come under its observation, only to find that the effect is to put decent, if weak, citizens into the lower class and inveterate enemies of society into the higher, and it has no hesitation in concurring with the numerous eminent penologists who have affirmed the unsoundness of this basis of classification. Classification by reference to the character of the crime is a practical impossibility, since the estimates of the moral turpitude involved in a particular act committed under particular circumstances vary from judge to judge and from individual to individual, and to adopt this basis would have no other effect than to confer an absolute discretion upon some individual or body whose probable views it would, for any length of time, be impossible to anticipate. Finally, the basis of classification by age, which by one of the medical witnesses was combined with the idea of classification by status, married men being separated from the single, is an arbitrary one and does not correspond with the facts of human nature. There was submitted to

the Committee a monograph by a skilled psychologist in which it was ably demonstrated that the average mental age of the population of the United States was not, as had been supposed, 16, but only 13, some individuals falling far below that age and some, on the other hand, attaining a very much more complete development. Whether or not such a view is accepted, it is generally admitted that the mental age of a man by no means necessarily corresponds with his age by the calendar, and in the opinion of the Committee it is impossible to do more than segregate those individuals who, upon examination, are found to be mentally so under-developed as to be properly classifiable as defectives. On the other hand, classification by reference to industrial capacity has the advantage of providing for an organization which should make it possible for the penitentiary administration so to place an individual that his activities will harmonize as closely as possible with his capacities, and thus prevent any greater degree of discontent than is necessarily consequent upon the restriction of his liberty of movement and association; it has also a further advantage in that, speaking very generally, it will be found that those convicts who are least likely to be sympathetic to one another will not be brought into close relations. The principal disadvantage which can be alleged against it is that it does not provide for those individuals who are difficult to control and whom it may be thought necessary to place under an especially severe regimen. This objection is not considered a serious one, for the reasons indicated in the remarks which follow on the subject of discipline.

37. For the purpose of carrying out the general principle of industrial classification thus indicated, it will be the duty of the industrial director who, as above recommended by the Committee would be a member of the Penitentiary Board, to arrange the industries at the different penitentiaries in such a way as to, so far as possible, develop at each those peculiarly suited to the locality. In so doing he would have due regard to considerations of climate, of the power, transportation and other facilities available, and of the market for the goods to be manufactured, which, should, if possible, be such as to find a ready use in the service of the Dominion Government near the penitentiary in question. Speaking generally, it would appear much more satisfactory to have a single adequate shop for the production of a given class of article, and to employ in that shop perhaps a considerable portion of the convict population of the penitentiary in which it is located, than to establish in a number of penitentiaries less adequately equipped shops for the production of such articles and to have the same or a greater number of men working at similar work at several different places. The Committee has been very much impressed with the view that, for the sake of the temper and interest of the convicts, the processes followed in the penitentiaries should be as modern and efficient as exist in ordinary shops outside. It is only in this way that the convict can be made to feel that he is being given an opportunity of doing himself justice and that he is learning processes and acquiring functions which will be of use to him after his discharge. In one jurisdiction where this result has been aimed at and in part attained, it has been found possible to arrange with trades and labour unions that such discharged convicts as so desire are, upon their discharge, given union cards, if they are skilled workmen and have not learned bad working habits in the prisons. That is a development from which may be hoped

38. It will probably not be possible to put fully into force an adequate system of classification until medical and psychological investigations have been entered upon, and the complete operation of the proposed regulations which follow on the subject of classification is therefore made conditional upon the establishment of a receiving prison. These regulations might, it is suggested, take the following form:—

32. Upon the establishment of a receiving or classification penitentiary every person sentenced to imprisonment in a penitentiary shall be taken in the first instance to the penitentiary so established and shall there be made the subject of study with a view to determine whether or not he is suffering from any mental or physical disease and what are his mental and physical capacities. No such convict shall be received while suffering from infectious disease.

33. If, as a result of the examination in the last preceding paragraph mentioned, the convict is found to be suffering from any physical disease requiring special treatment, or rendering it advisable or necessary that he should be under a regimen differing from that applicable to the normally healthy convict, he shall either receive, in the penitentiary, such treatment as his condition appears to require or be transferred to a hospital or infirmary, and if any convict upon such examination is found to be mentally defective or mentally disturbed to the degree defined in the Penitentiary Act, he shall be dealt with as in the said Act directed.

34. Any convict who, as a result of the examination aforesaid, is found to be in a condition not requiring him to be dealt with under the last preceding paragraph, shall, on the report of the investigating officers as to his special capacities and adaptabilities, be assigned for employment in such industry or employment available in any penitentiary as he seems best adapted or desires to pursue, and shall be transferred to that penitentiary in which such industry or employment has been established or is available and be employed accordingly.

35. In the carrying out of the investigation in the preceding paragraphs described such information shall be obtained and examinations made as the Penitentiary Board from time to time directs and such further information and examinations as the warden of the receiving penitentiary or the investigating officers may consider it advisable to record or make, but no physical examination of any convict shall be made which causes any pain to the convict or offends against common feelings of decency, unless in the opinion of the investigating officer, to be recorded in writing with full particulars, there is reason to believe that the convict is suffering from some disease or condition which cannot be cured without such examination.

36. As soon as possible after the arrival of a convict at a receiving or classification penitentiary, and not later than one month after his arrival, full reports with regard to such convict shall be made to the parole officer by the warden, the members of the examining staff and such other officers (not including the chaplain) as the warden may direct, in order that the advisability of the issue to such convict of a license under the Ticket of Leave Act may be considered.

37. Pending the establishment of a receiving or classification penitentiary the foregoing regulations shall, so far as the facilities available thereat extend, be carried out in the penitentiary at which the convict is first received, subject to the same directions and conditions in all respects as are laid down in the foregoing paragraphs.

38. All assignments and recommendations for assignments from time to time made by the examining and assignment staff at a receiving or classification penitentiary shall be subject to the exigencies of the situation at the penitentiaries to which the convicts are respectively assigned, and the wardens of such penitentiaries respectively may, if the circumstances so require, assign such convicts to other duties or work than that recommended, but a full report of such circumstances and of the action taken shall be sent to the receiving or classification penitentiary, and the warden of every penitentiary shall from time to time notify the receiving and classification penitentiary of the labour and general situation at his penitentiary in order that the assignments from time to time may be guided thereby.

39. The principal officer in charge of examinations and assignments at any receiving or classification penitentiary shall, whether or not he is the warden thereof, be entitled to communicate directly with the wardens, medical officers and chief industrial officer at other penitentiaries to which convicts are assigned from such receiving or classification penitentiary on the subject of such assignments, and the conduct, industry, classifying staff of such receiving and classification penitentiary such capacity and adaptability of the convicts so assigned, and such officer shall also from time to time cause to be made by the examining and further personal observations of the convicts assigned at the penitentiaries to which they are respectively sent as may be necessary to check the results arrived at upon the first examinations and to correct any assignments which do not appear to be in all respects satisfactory.

Payment for Labour

39. The broad general principles of the proposals made by the Committee on the subject of the remuneration of convicts for the labour have been indicated above in the paragraphs of the report recommending amendments to the Penitentiary Act. The suggested statutory provisions leave to the regulations the distribution among the convicts of their gross share of the product of their combined labour, ascertained as directed by the statute. An equal division is open to objection because of its failure to distinguish between the capable and incapable and between the willing and unwilling worker, and the Committee has felt it advisable to incur the danger of opening the door to partiality which any alternative involves. To provide, however, for many rates each similar or proportionate to the rate secured for like work outside necessarily result in so extreme a complication as to endanger the success of the whole scheme. An attempt at general parallelism must, in the Committee's opinion, fail because of the impossibility of reproducing in a penitentiary a real similarity to conditions outside. What is therefore proposed is that the practical and scientific staffs of the Penitentiary Branch, working in collaboration, should classify all the employments in the penitentiaries into five grades according to the results of an intensive study of the degree of intellectual capacity and physical dexterity which each employment involves, and that convicts who show a greater or smaller capacity or industry than the average of the class to which they are originally assigned should be promoted or demoted accordingly. In this way an individual stimulus would co-exist with a community stimulus to ensure, so far as it can be ensured, the

exertion of the maximum of effort. It is suggested that the relation of these classes to one another should be as 7 : 6 : 5 : 4 : 3, a convict employed at a task classified as requiring the highest degree of intellectual and physical capacity becoming thus entitled to slightly more than twice the monetary share of the result of the combined effort received by a convict employed at a task requiring no great mental capacity or physical dexterity. As an example, and without in any way desiring to anticipate the results at which the practical and scientific staffs may arrive, the following possible case might be cited. A stupid man with manual dexterity might be fit for no better employment than the scrubbing of floors or the cleaning of brass; he would be in Class 3. At the other extreme a man of high type employed at a machine the control of which called for good brains and high manual dexterity would be in Class 7. When at the end of the quarter the convicts' share of the total value of their labour was ascertained, the reward of the first man would to that of the second be as 3 is to 7 or, if the first man's reward was, e.g., \$15, that of the second would be \$35. The regulations to carry out this recommendation might be as follows:—

Remuneration for Labour and Convicts' Accounts.

40. The Penitentiary Board shall cause to be made a detailed study of every employment in the penitentiaries, and shall cause such employments to be graded in five classes, of which the highest shall include those employments which require for their proper exercise the highest capacity, intellectual and physical, and of which the lowest shall include those which require the least capacity. The highest of the five classes shall be known as Class 7 and the lowest as Class 3, the intermediate classes being known as Classes 4, 5 and 6, and the range of capacity within each class being as nearly as possible equal to the range in each of the other classes. There shall also be a sixth class, known as Class 2, in which shall be included the duties to be performed by apprentices to trades in which the skilled workmen are graded in Class 5, Class 6 or Class 7. The classification shall be kept constantly under consideration and shall be revised, amended and added to from time to time under the direction of the Penitentiary Board as circumstances require.

41. Immediately after the last days of the months of March, June, September and December in each year, the total number of days' work done by convicts at each penitentiary during the preceding quarter at the employments included in each of the six classes shall be separately ascertained, and the convicts' share of the labour value of the product at such penitentiary, determined as directed by the Penitentiary Act, shall be divided between them so that the sum received by every convict for each day's work done by him at an employment in any class shall, in relation to the sum so received by him or other convicts for each day's work done at an employment in any other class, be in proportion to the numbers of the classes respectively, namely as 2 : 3 : 4 : 5 : 6 : 7.

42. Full particulars of the total labour value of the product of each penitentiary, the convicts' share thereof as a whole and by classes, and the sum payable to each convict shall be notified to the convicts as may be directed by standing order as soon as possible after the end of the quarter to which the figures relate, and the full sum payable to each convict shall be credited to him in the books of the penitentiary, in which books there shall be entered as a charge against him any expendi-

ture made by him and the amount of any fine imposed upon him under these regulations. Every convict shall quarterly or oftener and from time to time at his reasonable request be given full particulars of the state of his account.

43. Every convict discharged shall be invited to leave an address to which may be sent any money payable to him under the preceding paragraphs which has not been distributable at the date of his discharge, and such money shall, if he so desires, be remitted to him at his expense in such form as he prefers. Any convict who, upon discharge, desires to waive payment to him of any money payable as aforesaid, may do so in writing, and such money shall be distributable as if the work done by such convict had not been so done.

44. There shall be credited to the account of every convict the sum of money, if any, which he has upon his person at the time of his arrival at a penitentiary, such other money as may from time to time be sent to him, and any workman's compensation to which he may become entitled, as well as any money credited to him as hereinbefore provided as remuneration for his labour. Withdrawals from the said account shall be made by cheque or written order and may be made for any purpose authorized by these regulations or any other purpose not disapproved by the warden, but no withdrawals shall be permitted for the purchase of food, drugs, intoxicating liquors, clothes or other like articles for use or consumption within the penitentiary.

45. The amount at the credit of the account of any convict at any penitentiary shall, if such convict is transferred to any other penitentiary, be transferred at the same time, and the sum distributable to any convict so transferred in respect of that portion of any quarter elapsed before his transfer shall be likewise transferred when ascertained.

46. The accounts of convicts may, if so directed by the warden, be kept at any branch of a chartered bank of Canada in the neighbourhood of the penitentiary, and if so kept, arrangements shall be made for the collection from the convicts, delivery to the bank and return therefrom to the convicts from time to time of the several pass books relating to their respective accounts.

Schools

40. The arrangements for the formal education of convicts are very inadequate. It is only very recently that the long overdue provision has been made for a schoolmaster at any penitentiary. At some, arrangements have been made for the teaching of illiterate convicts by officers ordinarily otherwise employed or by literate convicts willing to undertake the duty, but generally such instruction has been limited to that portion of the noon hour not required for the midday meal. The proportion of illiterates at some of the western penitentiaries is estimated at fifteen per cent, and at all penitentiaries illiterates are numerous, many of them being boys of between fifteen and eighteen whose possible school days have been interrupted by a penitentiary sentence. It is, in the opinion of the Committee, of great importance that provision should be made for the formal education of all illiterate convicts and that facilities for formal education should be extended to all other convicts who desire to take **advantage** of it. The following regulations on this subject are consequently recommended:—

Education of Convicts

47. Provision shall be made by standing order at every penitentiary so that every convict who is not able easily to read and write the English or French language and to solve easy problems in arithmetic shall be instructed on every working day during at least one-half of the hours ordinarily devoted to labour. When a school master is attached to the penitentiary, such instruction shall be carried on by him, and under his direction by such convict assistants as may, with their consent, be assigned to that duty; when no school master is attached to the penitentiary, it shall be the duty of the warden, either directly or through some officer selected by him, to arrange for the holding of the necessary classes.

48. The warden of every penitentiary shall provide for the formation among convicts to whom the last preceding paragraph does not apply, but who desire to obtain further instruction, of classes for the study of such subjects, including technical subjects, as may appear likely to be of value to them and to attract their interest; he shall encourage the formation of such classes, stimulate well educated convicts suitable therefor by temperament and character to act as teachers and, where possible, arrange in connection therewith for such lectures and other outside assistance as local resources permit. Classes under this paragraph shall, except in special circumstances to be set out in standing orders, not be held during the hours of labour.

Libraries

41. The libraries at the various penitentiaries differ widely in their character and contents, and most, if not all, of them, might be substantially improved. Difficulties in securing requisitions from the local library board upon whom the duty of selecting the books to be purchased is placed by the existing regulations, and also difficulties in having requisitions filled, were indicated to the Committee. The libraries examined seemed, speaking generally, to be deficient in recent, and especially in scientific, literature, for which, if available, there would, it would appear from representations made by a number of convicts, be a demand of a character worthy of encouragement. The Committee sees no reason why the development of the libraries should be left wholly to the initiative of the local officers at each penitentiary. Suggestions from local officers ought if possible to be adopted, but, apart from local suggestions, a higher standard of quality and a greater degree of economy would seem likely to result from selections, other than those necessary to satisfy some special local request, being made by the central administration. The following regulations on the subject are consequently recommended:—

Libraries

49. The Penitentiary Board shall annually or oftener notify the warden of each penitentiary of the amount of money which it has assigned for the improvement of the library thereat, and the warden shall obtain from the officers of such penitentiary their suggestions with regard to the books which ought to be purchased. Having regard to the suggestions so obtained, the Penitentiary Board shall cause to be made such purchases as it thinks fit up to the sum assigned as aforesaid. Penitentiary officers and the Penitentiary Board shall, in selecting books to be purchased, have due regard to modern, and especially to technical and scientific, publications of a character likely to stimulate the interest of the convicts..

50. At every penitentiary a catalogue of the books in its library shall be prepared under headings indicating their general character, and every convict shall be furnished with a copy of such list, or given access thereto, for the purpose of selecting the books which he desires to read. The list shall be promptly and regularly revised as may be directed by standing order.

Conduct and Treatment of Convicts

42. The following regulations on the general subject of the treatment and conduct of convicts are recommended:—

Conduct and Treatment of Convicts

51. At the season of the year when the days are shortest convicts shall be required to labour in the shops, fields or other places where the work is carried on during at least six and one-half hours on every day except Sundays and public holidays, and the total number of hours during which they shall be required to labour as aforesaid shall not, during any year, be less than twenty-four hundred hours.

52. The clothing and other personal property brought with him by a convict on his arrival at a penitentiary shall, unless the convict otherwise expressly directs in writing, or unless, by reason of the condition of any of the said clothing or other articles, the danger of infection therefrom, or otherwise, the warden otherwise directs in writing with a record of his reasons, be washed, cleaned and safely put away in such manner that they will be preserved and receive no injury. Such clothing and other articles shall be transferred from time to time from penitentiary to penitentiary with the prisoner and shall be redelivered to him on his discharge.

53. To every convict there shall on his entering the penitentiary be issued well-fitting clothing and necessary implements of authorized qualities and patterns (according to season where different qualities are authorized for different seasons) as follows:—an overcoat*, a coat*, a pair of trousers*, a belt*, or a pair of braces*, a pair of socks*, a pair of boots*, a pair of felt slippers*, a cap*, a suit of underclothes*, a shirt*, a pair of mittens*, a tooth brush, a hair brush, a comb, and also, in penitentiaries in which cellular feeding is the practice, a set of necessary implements for dealing with his food. Each of the articles marked with an asterisk shall have stamped upon it or securely sewn to it the number of the convict to whom it is issued.

54. New articles shall from time to time, at the request of the convict or otherwise, be substituted for those originally issued as may be necessary by reason of unavoidable accident or ordinary wear and tear. A change of underclothing, socks and shirt shall be issued once or twice weekly to each convict as the character of the work performed by him may require, the articles exchanged being turned in by the convict and credited to him prior to being washed and made ready for reissue to him.

55. Every convict shall, except when in hospital, on duty or at recreation pursuant to these regulations or to standing orders, be confined separately in a cell assigned to him. No convict shall be assigned to any cell until after the medical officer has inspected the same and has certified that it is so placed, lighted and equipped that it may properly be used for the confinement of convicts under this paragraph without any

danger to their mental or physical health, and every such certificate shall be entered in the book in which standing orders are entered and shall be signed by the medical officer. The certificate may specify the special conditions, if any, which, in the opinion of the medical officer, should be observed in order that the cell may properly be used, but no such condition shall specify any period to which confinement in such cell ought to be limited in order to avoid injurious consequences to the health of the convict; any other condition specified by the medical officer shall be exactly observed.

56. Provision shall be made by standing order for the bathing and shaving of every convict at least once a week and for such additional shaves and baths as may conveniently be arranged or as may be necessary having regard to the character of the work in which the convict is engaged. The bathing and shaving of convicts shall not be permitted during the hours allotted to labour, unless interference with labour cannot be avoided, in which case the standing order shall set out the reasons for such interference being permitted.

57. Any complaint by a convict against another convict shall be made to the officer in charge of the complainant, but if it is not remedied, the complainant shall have the right to be taken before the warden and to repeat the complaint in person. A convict shall have the right to be brought before the warden to complain in person of his treatment by an officer or to make any other request which he may desire to make to the warden. Not more than twenty-four hours shall elapse between any request by a convict to be brought before the warden and his being so brought, except when a Sunday or holiday intervenes or the warden records his refusal to permit the convict to be brought before him on the ground that the request is made by way of abuse of the right given by this paragraph.

58. Every convict shall conduct himself quietly, properly and respectfully at all times. He shall be diligent in the performance of his work, shall keep his hair cut short (but not cropped unless he so desires), and his person and clothing as neat and clean as his work will permit. Every convict shall instantly obey any order given him by an officer and shall not, except on peril of punishment for disobedience, be permitted to refuse obedience until he has seen the warden, but nothing in this paragraph shall prevent such convict from complaining to the warden of his having been compelled to obey any order. *Cf. Rules 166, 167, 173.*

59. No convict shall be in possession of any article not issued to him by the penitentiary or permitted to be in his possession by these regulations or by standing or special order of the warden. *Cf. Rules 164, 165.*

43. The Committee has referred elsewhere in this report on the views of penitentiary officers and to its own views on the subject of the present regulation requiring practically perpetual silence, and also to the practice actually followed in the enforcement of this rule. In substitution for it the Committee recommends the following regulation.

60. No convict shall speak to or communicate with any other convict between lights out and reveille or during religious services, and at other times no convict shall speak to or communicate with any other convict on the subject of any future or possible offence or in such a manner as to bring into ridicule or contempt any officer connected with the penitentiary administration, or any regulation or any standing order or other rule relating to any penitentiary, or as to irritate or annoy any other convict. No convict shall in any circumstances make use of any loud, boisterous, or obscene language.

44. The Committee has been much impressed by the unanimity of penitentiary officers on the subject of the depressing effect of long continued confinement of convicts in their separate cells. Many of them have referred to the hardship imposed by the continuous solitude between four or five o'clock in the afternoon and six or seven o'clock the following morning, and the Superintendent stated that, when this confinement was continued from Saturday over an intervening Sunday and a following public holiday, it was easy on the Tuesday morning to observe the marks of suffering. At some penitentiaries half a day's labour is done on a statutory holiday following a Sunday, but this is not universal, and the following general regulation is consequently recommended.

61. On any day, whether a Sunday, public holiday or other day, upon which at least a full half day's labour is not performed by any convict fit for work and not in isolated confinement under these regulations, such convict shall be permitted to be out of his cell during such day for at least three hours, of which at least one and one-half hours shall, weather permitting, be passed in the open air in such proper recreation as the convict desires, but under necessary supervision.

45. As appears from the general tenour of this report, the Committee considers of prime importance in the management of the penitentiaries the extension to the convicts of all privileges not inconsistent with the restriction of their liberty of movement and association, and the definition of inconsistency should not, in the opinion of the Committee, be unduly rigid. The unanimity of opinion among wardens and other penitentiary officers as to the smallness of the proportion, even under present conditions, of the convicts who are difficult to control has been very striking. Notwithstanding many meaningless and unnecessary aggravations of the inevitable hardship of imprisonment, it is generally conceded that not more, at the outside, than fifteen per cent of the convicts give any trouble and that serious difficulty is experienced in controlling not more than five per cent. It follows that for at least eighty-five per cent of the convicts, the present repressive regimen is unnecessarily severe, and the Committee has, in view of its numerous discussions with prison officials, convicts and ex-convicts, no hesitation in expressing the confident opinion that, by the removal of some of the more glaring hardships which result from the rigidity of the present system, and by the elimination from the ordinary convict population of those convicts who are mentally disturbed or mentally defective to a degree which renders them incapable of adjusting themselves to prison discipline, the number of those who will be found even difficult of control under the system outlined in this report will become negligible. The Committee consequently attaches importance to the following regulations on the subject of convicts' privileges.

62. Every convict shall be entitled, subject to the provisions of the Penitentiary Act as to correspondence,—

(a) To receive, in the presence of a guard, once in every two months, and to converse with, a member or members of his family, in English or French if all the parties speak fluently either one of those languages, but if not, in any other language, whether or not it is understood by the guard. *See Rule 177.*

- (b) To receive, in the presence of a guard, once in every two months, and to converse in English or French, exclusively on the subject of the convict's property or business, with a business agent.
- (c) To write at the public expense once in every month on personal and family matters only, but including his health and treatment in the penitentiary, to some member of his family, or, if there is no member of his family to whom he desires to write, then to some friend approved by the warden. *See Rule 177.*
- (d) To write at the public expense once in every month, or oftener if the circumstances are such as to require it, to a business representative on the convict's business.
- (e) To answer at the public expense any communication on the business of other persons which may be received by the convict.
- (f) To receive from time to time all letters on personal, family or business matters which may be received at the penitentiary addressed to him. *See Rule 177.*
- (g) To receive from the penitentiary library to the extent of the supply, one volume and one magazine weekly.
- (h) To exercise himself under supervision, outdoors if the weather permits, in such proper manner as he desires during at least fifteen minutes in every twenty-four hours.
- (i) To be supplied with pen and pencil, ink and paper, in reasonable quantities, both for purposes of correspondence and of study or training.

46. All of the numerous penitentiary officers who have been asked for their opinions on the subject have expressed themselves as in favour of provision being made for the issue of tobacco to convicts, not only because the convicts suffer greatly from its deprivation and are inclined to rebelliousness because they consider this unreasonable, but also because of the extent to which the absence of any authority for the issue of tobacco induces trafficking by the guards and tends to demoralize the whole penitentiary administration. Estimates of the extent to which, by the issue of tobacco, trafficking would disappear ranged from fifty per cent upwards, and the lower estimates seemed to neglect the probability that the guards who give way to the temptation to supply tobacco are those who later supply other and much more dangerous articles. There would be far less difficulty in resisting temptation generally if the temptation to supply so innocent an article as tobacco was removed. The Committee considers among the most important of its recommendations the inclusion of tobacco in the list of things to which convicts are entitled. The regulation proposed is as follows:—

- (j) To receive two ounces of tobacco weekly, and to receive materials for its use, such issues to be made at the public expense until a system of remunerating convicts for their labour has become established, and thereafter at his own expense.

47. The foregoing regulation deals with a convict's rights but it is, in the opinion of the Committee, of importance that the widest possible discretion should be conferred upon wardens to extend privileges and it is proposed that this power should be conferred by a regulation in the terms set out in this and the next following paragraphs of the report:—

63. Any warden may by standing order extend privileges to convicts in relation to matters other than those in the last preceding paragraph referred to and, in respect of the said matters, to such degree as in his opinion it is advisable to extend them, and particularly (but no so as to restrict the generality of the foregoing expressions) may extend to convicts any of the following privileges:—

- (a) To write at the public expense letters on personal and business matters more frequently than as defined in the last preceding paragraph or without limit of number;
- (b) To receive more visits than are in the last preceding paragraph mentioned, either subject to limitation or without limitation as to number, the relationship of the visitor or otherwise, and to converse with all or certain visitors without the presence of a guard;
- (c) To receive more books and magazines than are in the last preceding paragraph mentioned or to exchange them more frequently;
- (d) To have other and more prolonged opportunities of exercise and recreation, both physical and mental, than are mentioned in the last preceding paragraph;
- (e) To receive, pending the establishment of a system of remuneration of convicts for their labour, more than two ounces of tobacco weekly, provided that the total does not exceed four ounces, and to receive, at his own expense after the establishment of such a system, such amount of tobacco as he desires.

48. The Committee considers the two privileges which follow to be of special importance. It has not included them among the rights the convicts may exercise as a matter of course only because they are not now exercisable in all penitentiaries, and the Committee considers that they should be extended by wardens individually. In some penitentiaries certain publications are permitted to be received by convicts, but in others none are in fact received, and in at least one their receipt is definitely prohibited. Even when they are receivable, no newspapers are permitted, and in November the Committee found convicts from the United States whose only information about the result of the presidential election had been surreptitiously obtained. Reasons were adduced before the Committee for forbidding subscriptions to newspapers, but it was found that the evil results suggested as likely to follow had not in fact ensued where, as in Massachusetts, New York, and New Jersey, newspapers are freely admitted to the prisons. On the general principle that the penitentiary regimen should be such as to assist and not hinder the re-establishment of convicts after their release, there seems to be no reason for destroying their confidence in themselves after release by inducing the fear that their ignorance of events during their imprisonment may betray them as ex-convicts. After carefully weighing all the considerations the Committee has formed a strong opinion that ordinary newspapers should be admitted to the penitentiaries and suggests that any warden who fails to extend the privilege of their receipt to convicts under his jurisdiction should be required to make a special report stating the reasons for his refusal. The privilege of correspondence courses is self-explanatory. It appears already to have been granted in some penitentiaries, and should be in all.

- (f) To receive from the office of publication, at his own expense, such newspapers and periodicals as may not be expressly prohibited by the warden by standing order, and to receive from any bookseller approved by the warden any books which he may desire to buy.
- (g) To subscribe and pay for such courses as he may desire at any correspondence school approved by the warden.

64. Nothing in the last preceding paragraph shall entitle the warden to extend or withdraw privileges to or from some only of any number of convicts employed on the same duties, or to or from any group or number of convicts otherwise than by standing order duly entered in the order book, but this paragraph shall not prevent the warden

- (a) from allowing an individual convict, upon special application in each case, to receive more visits or write more letters than are limited either by these regulations or by any standing order passed thereunder, or
- (b) from granting any special privilege on the recommendation of the medical officer, or
- (c) from withdrawing privileges from individual convicts under the provisions of the regulations relating to punishments, or
- (d) from extending special privileges by standing order to such convicts as are selected by their fellows for specific duties, defined by standing order, to the performance or assumption of which such special privileges are attached.

65. After the establishment of a system for the remuneration of convicts for their labour, the privileges of correspondence at the public expense shall, notwithstanding anything contained in the preceding paragraphs, be withdrawn, except for the benefit of those convicts to whom, having regard to their lack of funds through illness or the provision made by them for their dependents or otherwise, the warden may by standing order extend it by name with a statement of the reason for the order. Every such standing order shall specify a date for its expiry, but may be renewed from time to time.

Routine Remission of Sentences

49. After careful consideration, the Committee recommends the abandonment of the practice of allotting daily marks to convicts for conduct and industry. The present regulations direct that every officer is to note daily the conduct and industry of the prisoners in his charge and make a monthly return accordingly to the chief keeper. There is no specification in the regulations of the character of the note to be made, of the form of the monthly return or of the action, if any, to be taken thereon, the provisions on the subject being of the sketchiest possible character. The practice which should be followed was described by the Superintendent to the Committee in great detail, but the description did not correspond with the actual practice, which varies from penitentiary to penitentiary. The general idea is represented by the series of draft regulations which are appended to this report as Appendix D, but those draft regulations contain provisions for the protection of the convicts which are not observed anywhere. In some penitentiaries no attention whatever is in fact paid to the daily record of conduct and industry, and remission is automatic unless an award of a forfeiture is made by the warden for a specific offence. The reason for this course was explained to the Committee as being the danger of convicts being exposed to the tyranny of guards, who might, by the daily

deduction of a very few marks, deprive the convict of remission without his having an opportunity of explaining the reasons, if any, for his apparent bad conduct or idleness until so long after the event that the warden could not readily ascertain the facts. It was pointed out that the proper course for a guard to take in order to check a badly conducted or idle convict was instantly to report him to the warden so that a fitting punishment might follow within twenty-four hours. These views impressed the Committee as well-founded, and it is, therefore, recommended that the regulations for the purpose of carrying out the provisions of the Act on the subject of routine remission of sentences should be in the following terms:—

66. Any convict who is first received at a receiving or classification penitentiary may commence to earn remission at the beginning of the month next following his transfer therefrom to some other penitentiary and any convict who is first received at any other penitentiary or remains for more than two months at a receiving or classification penitentiary, may commence to earn remission at the commencement of the month next following the termination of the first two months of his sentence, unless, for an offence committed before any remission is earned, the time during when no remission can be earned is extended by the award of the warden.

67. After he may earn remission, every convict shall be entitled to a remission of six days in every month of his sentence until he has earned seventy-two days' remission, and thereafter of ten days in every month of his sentence, subject to such deductions as may be made by the award of the warden under these regulations for offences committed by such convict.

68. When any convict who has been sentenced to imprisonment for life has remained in custody in a penitentiary for twenty years less any remission to which he would have been entitled if he had been sentenced to imprisonment for that term, special reports shall be made by the warden and the medical officer of the penitentiary in which the convict is then confined upon his conduct, industry and mental and physical condition, and such reports shall be transmitted to the Chairman of the Penitentiary Board for consideration. Like reports shall be made upon any convict who has remained in custody in a penitentiary for five years or more and has reached an age such that if there was added thereto a number of days equal to the remission which such convict has earned, the total would be sixty-five years.

Discipline

50. The present spirit of the regulations for the discipline of the penitentiaries has already been generally indicated in the early paragraphs of this report and, as there suggested, it is, in the opinion of the Committee, necessary, if the penitentiaries are, as institutions, to be of social benefit instead of the reverse, that a complete change should be made in the general principle upon which the regulations relating to disciplinary punishments are based. As has already been suggested, it is impossible for penitentiary officers in fact to maintain towards the men under their charge the rigid attitude the system demands. Human sympathies and antipathies necessarily develop and, since under the existing regulations an officer is forbidden to have any personal relation with the convicts whom he controls, the only kind of relations which exist in those

penitentiaries in which an attempt is made at rigidity are relations for illicit purposes. The effect of the system is not only to dehumanize the convict by its rigid application, but to corrupt both him and the officer in charge of him by the abstention of the better class of officers from gross deviation from the spirit of the system, and the forcing of a natural human instinct into expression through the medium of those officers who are susceptible of demoralization, either from their own inherent weakness or viciousness or through their corruption by the stronger personalities among the convicts.

51. This situation will in part be met by the omission of the regulation which now provides that "no convict shall be permitted to speak to another convict or to any officer or servant of the institution, except from necessity, or with respect to the work at which he is employed," but the mere abolition of this terrible rule will not meet the case, and there must, in the opinion of the Committee, also disappear from the regulations those provisions which now permit the punishment of a convict by his being placed on a diet of bread and water, by having attached to his foot a ball and chain or Oregon boot, by being flogged with a leather paddle, by being shackled to his cell gate for seven or eight hours a day, or by the application of water from a hose. It is, in the opinion of the Committee, almost impossible to entrust to any institution head the imposition of such punishments. For example, the regulations limit the diet of bread and water to "not exceeding 21 consecutive meals," but the Committee found one instance in which a convict had been kept upon that diet for several weeks, only one full meal a week being given him, the rule thus being observed in the letter but flagrantly broken in the spirit. Again, the Committee was assured by one warden that the punishment of shackling to the cell gate was never executed with the hands higher than the waist, and was indeed informed that it was so limited by regulation, but instances were found of convicts who had undergone the punishment with their hands fastened as far above their heads as possible. The Superintendent told the Committee that the punishment of hosing was executed only with water at a reasonable temperature and having a force not greater than could be withstood by a man's hand at a distance of a few feet. Descriptions, however, of the mode in which the punishment was actually carried out contradicted this benign account of it. Finally, the descriptions by convicts of punishment by the paddle convinced the Committee that its severity varied very widely according as the officer charged with administering it sought to prevent the flexible tip of the instrument curling upwards against the groin or was careful to ensure its doing so. The Committee found no instance of the use of the ball and chain or Oregon boot, which all the penitentiary officers with whom the subject was discussed appeared to think an unnecessary imposition. It may fairly be inferred that persons not familiar with penitentiary discipline would be likely to take the same view.

52. Most of the penitentiary officers who expressed their opinions to the Committee have insisted upon the necessity of maintaining the present disciplinary punishments, although their opinions differ widely as to the circumstances under which these should be imposed. One warden was under the quite erroneous impression that the paddle had been abolished. Another had in ten years inflicted corporal punishment only once. Each officer had his own preference

for some particular form of punishment, but there was a marked unanimity in favour of a resort to hosing, a punishment which, in the Committee's opinion, is indefensible in any circumstances. Granted that there was no change in the spirit of the regulations and that no provision was made either for sufficient work or for the remuneration of convicts for their labour, the Committee might, except with respect to hosing, not be prepared to contradict the views so expressed, since it might not be possible to enforce submission to authority without permitting wardens to resort to the infliction of pain as a deterrent. When human beings are confined without occupation which provides an interest in life, are forbidden to give rein to the fundamental gregarious instinct and to communicate, except impersonally, with any one, are confined for fifteen or sixteen hours out of every twenty-four in a cell three or four times the size of a piano case, with their sufferings and the sufferings of their dependents as the most likely subject of their meditation, the result is likely to be, if not a disturbed mentality, at least a rebellious attitude of mind which can perhaps in some circumstances be prevented from exhibiting itself dangerously only by the most severe measures.

53. The Committee is fully convinced that in the penitentiaries to-day there can very readily be brought about a change in practice of the same kind as that which the last one hundred years has seen in the conduct of schools, a change from the discipline of Dotheboy's Hall to that of a modern boys' school, the same change as an even shorter time has seen, indeed to-day is seeing, in the practice in insane asylums. This change has already, in a large measure, been made in some of the western penitentiaries. The Committee was told of asylums in which even to-day the mentally disturbed were restrained by strait-jackets and locked doors, but was much impressed by a visit it had the privilege of making to the Rockwood Asylum at Kingston where, among a heterogeneous inmate population of over five hundred, suffering from every variety of mental disability from homicidal mania downwards, there were almost no locked doors and not a single inmate undergoing any physical restraint by way of punishment or otherwise. The Committee also met the head of a large American asylum whose administration was governed by the same general principle and who by its application and by improved treatment had increased the annual percentage of patients discharged as cured to nearly double the former percentage. The bold facing of the problem to be solved in the administration of penal institutions will, in the Committee's opinion, have equally remarkable results. Many of those convicts who now give a great deal of trouble will, the Committee is confident, be found on close medical examination to be mentally irresponsible and will require transfer to institutions for mental cases, while the others will, with adequate work of a kind of which they are individually capable, and proper treatment, give no disciplinary trouble. A warden who is not able to keep order without resorting to cruel and unusual punishments is, in the opinion of the Committee, as completely inefficient as a school master given to exhibitions of temper and even in spite of them unable to control his class. Both should be required to find some other occupation. The provisions which the Committee recommend for inclusion in the regulations on the subject of discipline are consequently as follows:—

Offences and Punishments

69. Every complaint which any officer of the penitentiary makes with regard to the conduct or industry of any convict shall be considered and disposed of in the presence of the convict concerned; every such complaint shall be in writing and shall give particulars of the time and place at which the matter of the complaint arose. The complaint shall forthwith be communicated to the convict concerned by the officer by whom it is made.

70. If any complaint by a convict involves an officer, such officer shall be required, if in the opinion of the warden the complaint has merit, to submit a written statement on the subject and if, upon the consideration of a complaint by a convict against an officer or by an officer against a convict, the convict and the officer disagree as to the facts of the occurrence, both the convict and the officer shall be interrogated by the warden in the presence of each other before the matter of such complaint is disposed of.

71. If, on the hearing of any complaint on the subject of which an officer and a convict differ in their statement of the facts, any other officer or convict appears to be likely to be able to resolve any doubt, such other officer or convict shall likewise be interrogated by the warden in the presence of the officer and the convict primarily concerned.

72. Records shall be kept of every complaint made by any officer against any convict, and of every complaint by a convict against an officer, and such records shall be so kept that all the complaints made from time to time by any officer, and all the complaints made from time to time against any convict, may be together in such form that they may be readily referred to. A return shall be made weekly, or at such other intervals as may be directed by the Penitentiary Board, of the number of complaints against convicts made by each officer respectively, and of the particulars of every complaint against each convict with a statement of the decision thereon.

73. The warden shall have power to impose upon a convict who has been guilty of improper conduct the following punishments and no others, the limitations applying to a single offence or to any number of offences committed before the award:—

- (a) Forfeiture of the remission of sentence provided for by these regulations not exceeding the remission such convict might earn in one month, or six days' remission, whichever is the greater.
- (b) Forfeiture of his share of the allotment to the convicts for their labour not exceeding any amount equal to thirty days' allotment, the award to be expressed in days.
- (c) Forfeiture for not more than one month of any of the following ordinary rights and special privileges:—
 - 1. Right to family visits.
 - 2. Right to family correspondence.
 - 3. Right to library.
 - 4. Right to recreation.
 - 5. Right to tobacco
 - 6. Any privilege which the warden has granted by standing order.

74. For persistent idleness, the careless or malicious spoiling of material, or damage to machinery, plant or equipment, a convict may as a punishment be transferred to any other employment than that in respect of which the offence was committed; such transfer shall not be combined with any other punishment except forfeiture of so much of the offender's share of the allotment to convicts for their labour as may compensate for any damage done, but not exceeding the allotment for thirty days.

75. Forfeiture both of remission of sentence and of the offender's share of the allotment to convicts for their labour may be combined with forfeiture of all privileges granted by standing order, but shall not be combined with the forfeiture of any right except the right to tobacco.

76. Forfeiture of two, but not of more than two, rights may be combined with forfeiture of privileges granted by standing order and with either forfeiture of remission of sentence or forfeiture of the offender's share of the allotment to convicts for their labour, but not with both.

77. Forfeiture of any three, but not of more than three, rights may be combined in one award. Forfeiture of rights to family correspondence and to family visits shall in no case be awarded in combination. A convict may, notwithstanding the forfeiture of his right to family correspondence, notify by letter any one person that his privilege has been withdrawn and ask such person to notify such other person as he may name.

78. In case (a) a convict is guilty of escaping or attempting to escape, or of a crime for which he would be punishable by law if his act had been committed when he was not in custody, or (b) the warden has been unable by the imposition of the punishments authorized by these regulations to prevent a convict from continuing to misconduct himself, such convict may be ordered by the warden to be confined in isolation in a cell of adequate size, sufficiently lighted during the hours between reveille and lights out to enable him easily to read, adequately equipped, and certified by the medical officer to be a place in which confinement in isolation under the conditions hereunder specified may be carried out without danger to the physical or mental health of the person confined therein.

79. Forthwith after the making of any order under the last preceding paragraph, the warden shall make a report to the Penitentiary Board with full particulars of the reasons for such order and shall also notify the medical officer who shall immediately examine the convict and report on his condition. The reports of both the warden and the medical officer shall not only contain the facts but shall also state fully the reasons which, in their respective opinions, have caused the commission of the offence or the difficulty of preventing the misconduct with their recommendations as to the mode in which the situation can be best met.

80. The convict so reported upon may be continued in such isolated confinement until the instructions of the penitentiary Board as to his disposition have been received, unless it sooner appears that it is not necessary to so continue him in which case he shall forthwith be released therefrom.

81. While such convict continues in such isolated confinement, he shall be visited at least daily by the warden, at least twice daily by the medical officer and by other officers so often as may be directed by the warden. A record shall be made daily, in such form as may be prescribed by the Penitentiary Board, of all such visits, except the visits of the medical officer.

82. The medical officer shall record in his books the condition of the convict at each of his visits; he shall also report to the warden any measures which are in his opinion likely to be beneficial, and shall prescribe from time to time the diet and the amount and character of the exercise best adapted in his opinion to the mental and physical health of the convict; such and no other diet and exercise shall be provided and arranged for him. Accurate and full reports of the diet and exercise ordered or arranged for shall be made twice weekly by the medical officer to the Penitentiary Board.

54. In addition to the provisions of the above paragraphs, the Committee considers it necessary to add that which follows, in order to prevent convicts from being kept in isolated confinement for the purpose of compelling a confession of irregularities of which they are suspected without proof of their guilt, or simply on general principles because of some past offence or because they are supposed to be "bad men." The Committee has had instances of this nature brought very forcibly to its attention.

83. No convict shall under any circumstances be placed or kept in isolated confinement except on the order of the warden as provided in the last five preceding paragraphs or while awaiting a hearing on a charge of having committed an offence of a serious character, and confinement in isolation while awaiting a hearing shall not continue for more than twenty-four hours or, if a Sunday or public holiday intervenes, forty-eight hours, without the hearing being proceeded with, and in no circumstances for more than three days.

55. If, in the opinion of the Minister, there should exist within the penitentiary administration power to resort to corporal punishment in any circumstances, the following regulations provide the necessary safeguards.

84. When it appears that the warden's powers of punishment are inadequate to meet the case of any convict, all the reports of the warden and of the medical and other officers on the subject of such convict shall be laid before the Penitentiary Board, which may direct such convict to be punished in such manner, corporal or other, as the circumstances seem to require, subject as follows:—

- (a) The exact description of the punishment to be imposed, including particulars of its duration and extent, shall be entered in the record of the proceedings of the meeting of the Penitentiary Board at which the punishment is decided upon, and such record shall also include a statement of the reasons for the punishment and the opinion of the Board that without its imposition the convict cannot be controlled.
- (b) The minute made under the last clause shall, before it is acted upon, be concurred in and signed by the Chairman of the Board, and a copy thereof shall be the sole instructions to and constitute the only authority of the warden for the execution of the punishment directed, which shall be carried out in exact accordance with such minute, subject to the provisions of the next following clause.
- (c) Notwithstanding anything in the minute, the punishment shall not be carried out unless immediately before its commencement the medical officer certifies to the warden in writing that it can be carried out without any mental or physical consequences to the convict beyond temporary discomfort and an increased unwillingness again to offend, and it shall be immediately stopped by the medical officer upon its appearing that any further consequences than he had first certified might possibly ensue. The medical officer shall for this purpose keep the prisoner under observation during the whole time of the punishment.

85. Neither the Penitentiary Board nor the warden shall award any punishment except a forfeiture of remission of sentence for any offence for which a charge is directed to be or is laid before a magistrate and if, after the Penitentiary Board or the warden has awarded any other punishment, the offence for which it was awarded is brought before a court or magistrate, the Board or warden shall submit to such court or magistrate the record of such award with a request that the same be considered in the fixing of the sentence imposed by such court or magistrate.

Women's Penitentiaries

56. The physical plant of the penitentiaries generally, and even that part of it which is devoted to female convicts, represents a considerable expenditure of public money, and the Committee is not prepared to make detailed recommendations with relation to the arrangements which should be made for the small total number of female convicts. It has, however, no hesitation in recommending that a reorganization should be effected so that women convicts should be confined in a completely separate institution out of view of a penitentiary for the confinement of male convicts. The Committee suggests that this subject should be considered and reported upon by the Penitentiary Board, with due regard to the views of the medical officer and industrial director, and that notwithstanding what, having regard to the existing conditions, would be a possible hardship to a very few women in their withdrawal from the neighbourhood of their friends outside, arrangements might perhaps usefully be made for the concentration of all female convicts at a single institution of which the head should be a women warden.

57. Pending such an arrangement, which would involve a reconsideration of the regulations to be applied to a penitentiary exclusively for women, the Committee feels it unnecessary to go farther than to follow the existing regulations in their almost complete silence on the subject of women convicts and to recommend only the following regulations in relation to them:—

Penitentiaries for Women

86. The foregoing regulations shall be interpreted as applying in their terms only to penitentiaries exclusively for the confinement of male convicts, but the general principles of the said regulations shall extend to any penitentiary or part of a penitentiary for the confinement of women convicts, and no warden of any penitentiary in which women are confined shall have any greater or different disciplinary powers than those by those regulations conferred upon a warden of a penitentiary for male convicts only. The duties of officers of any penitentiary in which women are confined shall be *mutatis mutandis* the same in all respects as those of the officers whose duties and responsibilities are defined in these regulations, and the powers and duties of the Penitentiary Board shall be the same in all respects as in relation to penitentiaries for male convicts.

87. A female convict about to be delivered of a child shall, if her condition permits, be removed, before she is so delivered, to a special or general hospital outside the penitentiary and may there remain until the child has been born and the condition of the mother permits her return to the penitentiary. The child may also be brought to the penitentiary with the mother and there remain until the mother has voluntarily made other arrangements for its custody and care, but in no event for longer than two years.

Rescission of Existing Regulations

58. The existing regulations under the Penitentiary Act are intended to be wholly superseded by the present code of regulations and it is advisable to make that clear.

88. All existing regulations under the Penitentiary Act are rescinded.

PART IV.—INSTRUCTIONS AND REPORTS.

Meetings of Penitentiary Board

59. The constitution of the Penitentiary Board will not, in the opinion of the Committee, be of substantial advantage unless its meetings are both frequent and short. The regulations are so drawn that it is not essential that either the Minister or the Deputy Minister should regularly attend and take the chair. Under the chairmanship of the Vice-Chairman, the Board constituted as suggested would be in the nature of a departmental conference at which the views of departmental heads would be exchanged and decisions arrived at in the light of their several views. The Committee consequently recommends that after the Board has been fully formed it should be directed to meet either daily or at least three times a week, and in order to avoid the undue prolongation of the meeting, that the hour selected should be either noon or 12:30 p.m. The immediate prospect of lunch is likely to conduce to desirable brevity of discussion and thus prevent undue interference with the administrative duties of the individual members.

Medical Attendance

60. In the opinion of the Committee, one of the chief difficulties in the medical administration of individual penitentiaries is that the work of a penitentiary doctor is a limited general practice of a particularly uninteresting character. Provision has always existed in the Penitentiary Act for calling in consultants when sanity is in question, but consultations even in such cases are only authorized with the consent of the Minister. No provision now exists either in regulations or statute for consultations in other than mental cases and serious operations. The consequence is that the penitentiary doctor must either take up some specialty purely as a hobby, and for this there is no stimulus, or he sinks back into an attitude of resignation at the dullness of his occupation. Modern scientific medicine is a matter of specialization and it is, in the Committee's opinion, of first rate importance that adequate provision should be made for the services of specialists at penitentiaries. This, no more than other recommendations made by the Committee, is for the sake only of the afflicted convict (although in this connection that consideration is doubtless entitled to weight, since a convict is not free to choose his own medical attendant), but primarily for the sake of the state, which, under the present system, is without doubt involved in substantial, if incalculable, expense for the maintenance of prisoners, who if adequate medical attendance were available, would probably be found to be curable, with corresponding relief to the public purse either by its becoming unnecessary to support them in idleness in the penitentiary or by removing one of the principal causes leading to manifestations of criminal propensities after discharge.

61. The Committee has been much impressed by the wide divergence in the character of the medical service and medical equipment at different penitentiaries. At some penitentiaries alert, efficient medical officers appeared to the Committee to be taking an interest in the maintenance of the physical health of the convicts and to have succeeded in securing adequate hospital equipment, including the equipment of a modern operating room. At other penitentiaries, on the other hand, the medical service hardly seemed to go beyond the occasional administration of a cathartic and in one large penitentiary the Committee found an operating room lighted by a single small electric bulb and completely without sterilizing equipment or any other of the equipment essential to the safe performance of operations. In this penitentiary the only article of furniture which the operating room contained was a *wooden* table which appeared to be specially made for the purpose. At one or more of the smaller western penitentiaries where there are no operating rooms, the Committee was advised that operative cases were removed to general hospitals, but this course was apparently considered impossible at some larger, but ill-equipped, penitentiaries.

62. Further, in every penitentiary there are a number of convicts whose mentality is defective and in some penitentiaries the Committee found convicts who were obviously insane. These latter were, in most cases, retained in the penitentiary only because of the refusal or disinclination of some provincial authorities to assume responsibility for their custody and treatment even under arrangements whereby the Dominion assumed the cost of their maintenance, but there was ordinarily even for them, and still less for the convicts who were only mentally defective or slightly disturbed, no hospital provision in the penitentiary. Some very aggravated cases were at the time of the Committee's visits confined in the punishment or isolation cells; less aggravated cases were brought to the Committee's attention by an examination of the punishment records. It appeared to the Committee that many, perhaps most, of the prisoners the Committee selected to interview because of their long punishment records, were mentally irresponsible; the defective mentality of some of them was obvious.

63. The importance of efficient medical direction was consequently very forcibly impressed upon the Committee, and it considers it of primary importance that the medical service of all the penitentiaries should be under the general direction of a medical man of eminence who, as indicated earlier in the report, should, in the opinion of the Committee, be a member of the Penitentiary Board. The concentration of scientific activities of any given class is, in the opinion of the Committee, highly advantageous. It tends to give a common interest to a group of men all specially trained along the same lines and to create a useful body of informed professional opinion. An organization in which the public medical service can be concentrated exists in the recently established Department of Health and, in the opinion of the Committee there could usefully be added to the functions of that department a general supervision of the medical service of the penitentiaries. This, in the Committee's view, could best be done by the assignment by that department of a medical member of its staff, having special qualifications with relation to mental cases,

to act as Medical Director of Penitentiaries for a specific term subject to renewal, and with provision for substitution in the event of his temporary illness or absence. Although at the beginning, when it would doubtless be necessary for him to visit the penitentiaries and organize the medical service of each, his exclusive services would be required, the Medical Director would not ordinarily require to give by any means his whole time to that duty. This consideration adds strength to the proposal that the medical director should be assigned from the Department of Health by which his unoccupied time could be usefully employed, but the system of the classification of the civil service make so beneficial an arrangement difficult if not impossible to carry into operation, and the Committee consequently suggests that the medical directorship of penitentiaries should not be included in the civil service classification, but that there should annually be included in the penitentiary estimates an amount agreed upon by the Ministers of Justice and Health, respectively, as additional compensation to some medical man already on the staff of that department, and that one of the members of such staff having the necessary qualifications should from time to time be assigned jointly by the two ministers referred to and should receive this compensation, being at the same time appointed a member of the Penitentiary Board.

64. The Committee also recommends that the Medical Director be instructed to report to the Penitentiary Board upon the advisability of assigning the medical service of each penitentiary to the faculty of medicine at a recognized university in its neighborhood, and the making of a grant to that medical faculty in consideration of its assigning for residential duty at the institution an undergraduate of high standing or a recent graduate as an interne and of its making available the services of all the members of the faculty in their respective specialties to assist in diagnosis and treatment and to perform operations without further remuneration than is allotted to them by the medical faculty out of the general grant made to it. That arrangement, if reported upon favourably and approved, might be put in operation from time to time as opportunity occurs.

Other Appointments

65. The Committee recommends the following submission to His Excellency in Council authorizing the creation of the positions specified therein. The positions are not considered by the Committee as by any means likely to be numerous enough for the efficient permanent organization, especially of the industrial branch, but are of opinion that, upon appointments being made to the positions suggested, the details of the permanent organization can be worked out by the persons holding the positions referred to, and authority then obtained for such additional personnel as is necessary.

The undersigned has the honour to report that pursuant to section 22 of the Penitentiary Act, he, on the 28th day of September last, constituted Messrs. O. M. Biggar, K.C., W. F. Nickle, K.C., and P. M. Draper, Esq., a Committee to report upon a general revision of the Penitentiary Regulations and such amendments to the statute as appeared to be necessary, and the said Committee has made its report dated the 28th day of February, 1921, the contents of which have been communicated to your Excellency in Council.

Pursuant to the recommendations contained in the said report, the undersigned recommends that authority be given for the creation in the Penitentiary Branch of the Department of Justice of the following positions, namely, an industrial director, two assistant industrial directors, two assistant parole officers, and two industrial supervisors.

60. The Committee suggests that, in preparing the classification for the positions mentioned in the last preceding paragraph of this report, the Civil Service Commission might consider the adequacy of the following statement of the duties, qualifications and salary which should be attached to the said positions respectively:—

Industrial Director of Penitentiaries.

Definition of class.—To be responsible to the Penitentiary Board for the industrial organization of the penitentiaries, including the location and equipment of the various industries and the general direction of their conduct; to institute inquiries to determine for what classes of goods the demand in the public service is sufficiently large to justify the making of provision for their manufacture, the quantities of such goods required by each department, and the dates upon which deliveries thereof should be made; to determine the qualities and amounts of equipment and materials which are likely to be required for the conduct and use of such industries, and to perform other related work as required.

Qualifications.—A wide general business and manufacturing experience, including both production and sales or distribution; high administrative and executive ability.

Salary—\$5,000 per annum.

Assistant Industrial Director of Penitentiaries.

Definition of class.—Under the direction of the Industrial Director of Penitentiaries, to assist him in the performance of his duties with relation to the industrial management of the penitentiaries.

Qualifications.—A general acquaintances with business methods, wide experience of the production or distribution of manufactured articles, high administrative and executive ability.

Salary—\$4,000 per annum.

Assistant Parole Officer.

Definition of Class.—Under the direction of the Parole Officer, to assist him in the performance of his duties.

Qualifications.—Education equivalent to high school graduation and preferably university training. Experience and ability in social investigation, an acquaintance of criminology, tact, and ability to estimate individuals quickly and accurately.

Salary.—\$1,800 to \$2,400 per annum.

Industrial Supervisor.

Definition of class.—Subject to the general direction of the warden of a penitentiary to direct the industrial activities of the penitentiary, to supervise the distribution of the convicts assigned to productive employment, to oversee the industrial guards and to be responsible to the warden for the efficient and economical operation of the penitentiary industries.

Qualifications.—Education equivalent to high school graduation; at least five years of experience in factory or workshop management; supervisory and organizing ability.

Salary.—\$1,500 to \$1,800.

67. The definition of the duties of the Superintendent of Penitentiaries as this now appears in the civil service classification requires amendment, partly by reason of the amendments of the Penitentiary Act made in 1920 and partly by reason of the changes now proposed. The official titled, as well as the salary of the Superintendent of Penitentiaries, should also be changed. The present salary is not an adequate remuneration for such onerous duties as must be performed by the Vice-Chairman of the Penitentiary Board, which is charged not only with the direction of nearly two thousand men, but also with the duty of providing for their proper lodging, feeding, clothing, safe custody and discipline. In the opinion of the Committee, the salary of the Vice-Chairman of the Penitentiary Board should be at least equal to that recommended for the Industrial Director, which has been placed at a figure as low as is consistent with obtaining the services of a man having the necessary qualifications. The Committee therefore recommends that the title of the Superintendent of Penitentiaries should be altered to Superintendent-General of Penitentiaries, and that the Civil Service Commission should be asked to consider the statement of his duties and salary set out below.

Superintendent-General of Penitentiaries.

Definition of class.—To be responsible to the Chairman of the Penitentiary Board for the proper performance of the duties thereof in relation to all penitentiaries and to perform such specific duties as may be defined in regulations under the Penitentiaries Act.

Qualifications.—Education equivalent to graduation from university of recognized standing, several years of administrative experience, thorough familiarity with criminology and the administration of penal institutions; executive ability.

Salary.—\$5,000 per annum.

68. The statement of the duties of the Parole Officer as this appears in the civil service classification also requires amendment and the Committee recommends that the Civil Service Commission be asked to consider the substitution of the following form of statement:—

Parole Officer.

Definition of class.—To investigate and consider the circumstances of all federal prisoners in penitentiaries, reformatories and prisons with a view to determining whether a recommendation should be made to the Governor General for the issue of a license to any such prisoner under the "Ticket of Leave Act"; to prepare recommendations with relation to the issue of licenses under that Act; to arrange employment for and assist paroled prisoners; and to perform other related work as required.

Qualifications.—Education equivalent to graduation from a university of recognized standing; experience and ability in social investigation; a wide acquaintance with criminology, tact, and ability to estimate individuals quickly and accurately.

Salary.—\$3,000 to \$3,500 per annum.

Whipping under Judge's Sentence

69. Senior penitentiary officers, including the Superintendent, have drawn the attention of the Committee to the bad effect of requiring guards to execute the sentences of whipping imposed for certain offences under the Criminal Code in addition to imprisonment. They have pointed out that to require men in daily and intimate contact with convicts, and from whom a reasonable and humane attitude is ordinarily required, to execute severe physical punishment of this kind upon their charges is, especially when the prison conduct of the sufferer has been excellent, not only a hardship upon the guards, but tends to brutalize them to the detriment of the penitentiary administration generally. Like remarks were made on the subjects of paddling and other punishments authorized by the existing regulations to be imposed for prison offences. These latter should disappear or at least be very few after the adoption of this report, but the Committee is of opinion that whipping under the sentence of a court, and any other corporal punishment of that character imposed by the Penitentiary Board under the regulations, should, like capital punishment, be executed by a man especially employed for that purpose and having, in relation to convicts, no other function whatever. The Committee earnestly recommends accordingly.

Penitentiary Buildings and Hospital Accommodation

70. The penitentiary buildings throughout Canada are of a design and construction dictated by the spirit of repression. They are very substantial and very expensive. In parts of some of the older ones modern sanitary arrangements have not yet been installed, and in the penitentiary of St. Vincent de Paul, originally built in the form of a Greek cross, wings bisecting three of the re-entrant angles have been constructed, some of them having been built more or less recently and one of them being still under construction, with the result that the cells in the old wings have been darkened to a degree which is almost certainly detrimental to the health of the prisoners confined in them. To substitute new buildings suddenly is, of course, out of the question, and the process of replacing those now existing by buildings better designed for the true purpose for which penitentiaries exist must necessarily extend over a protracted period. It has been suggested to the Committee that the theory of prison construction might very well be varied and that buildings of a less permanent character be erected than those which it has been usual to build. The suggestion is based upon the probability that scientific and social development will, quarter century by quarter century, render existing arrangements obsolete by their failure to conform with more modern ideas. There appears to the Committee to be a great deal to be said for this view, and it recommends that the Penitentiary Board be asked to make a report on the subject of penitentiary buildings generally, with a full and detailed plan for the future; the report should specially refer to the advisability of a less substantial form of

construction than is now adopted, and in its preparation advantage should be taken of the generous offer of the Governor of the State of New York, conveyed through Mr. Lewis Pilcher, the State Architect, referred to in the letter covering this report. The Committee also suggests that the attention of the Penitentiary Board should first be directed to the penitentiary of St. Vincent de Paul, and that at the earliest possible time the use of the buildings at that penitentiary should be discontinued and others substituted.

71. This criticism of the character of the present penitentiary buildings does not in any degree affect the general recommendations of the Committee. American instances have been brought to the attention of the Committee in which prisoners did better generally in an institution having exceedingly inadequate and really insanitary accommodation, but in which the administrative spirit was not too violently repressive, than in a much better designed and equipped institution in which repression was the dominant note.

72. The Committee also recommends that the attention of the Penitentiary Board should also be particularly directed to the question of hospital accommodation in the several penitentiaries. In all of them visited by the Committee the hospitals follow the general type of construction adopted for the main portion of the penitentiary and have therefore what are known as "inside cells" opening on a wide corridor which intervenes between their barred doors and the windows of the building, these being of course also barred. The result is that sick convicts cannot easily receive sunlight or adequate fresh air and are generally so placed that while in bed they face the cell door and the windows beyond, a position which in a case of many diseases must be particularly irritating to the patient. It is suggested that such a type of construction is quite unnecessary and that, even before any new scheme of penitentiary construction is adopted, the present hospitals should be reconstructed on modern scientific principles. The attention of the Penitentiary Board should be immediately directed to the hospital cells now under construction at the Prince Albert and New Westminster penitentiaries, which should not be completed according to the present plans.

73. The equipment of the present hospital cells is sadly lacking and requires immediate attention. No provision is made for signals whereby the services of an attendant may promptly be secured and patients are dependent either upon the attendant's energy and activity or upon their ability to attract his attention by calling or shouting or, if they have the strength, by rattling their cans against their beds or the bars of the cells. In some penitentiaries, the lighting equipment is so inadequate that the doctors cannot make proper examinations with moving the patient and this, combined with the ordinary position of the bed, often makes reading difficult if not quite impossible even where there are no hampering rules, such as sometimes exist, preventing the use of what artificial light there is. The Committee recommends that proper signalling and lighting equipment should be at once installed in all hospital cells.

Food and Its Consumption

74. At most, but not all, of the penitentiaries there is employed what was described to the Committee as a "qualified" cook, the adjective being used in a commendatory sense. Some of the meals the service of which was observed by the Committee seemed to be appetizing and properly prepared; of others this could not be truthfully said. The Superintendent informed the Committee that the steward, who is also the cook, at the Kingston Penitentiary had during the war attended an army school of dietetics and was about to be assigned the duty of preparing diet sheets of balanced meals at all the penitentiaries. The Committee considers that, having regard to the scientific study of diet now generally resorted to, much more importance should be attached to the oversight of the balancing of food than even the contemplated arrangement would be likely to provide. It would appear advisable that a competent dietitian should, under the medical director, have general charge of the dietary at all penitentiaries and the duties of preparing bills of fare and directing the use of ingredients and recipes in order to ensure that the meals at every penitentiary are properly balanced and varied. The Committee therefore recommends that the Penitentiary Board should be asked at once to prepare a full report on the subject with a draft of the regulations necessary to secure the desired results.

75. The Committee further recommends that the Penitentiary Board be instructed to report on the advisability of substituting a system of communal feeding for the present system of cellular feeding. The former seems to be in use in some of the best administered institutions in the United States, and its advantages were very strongly urged upon the Committee by several witnesses, particularly by a number of medical men specially interested in the treatment of mental diseases. The ground of their objection to cellular feeding was its divergence from ordinary practice and its tendency to induce unnatural depression and the bolting of food. Reasons were, on the other hand, given to the Committee by some convicts and a number of penitentiary officers for the continuance of the present practice. While the Committee appreciates the strength of these reasons, it is by no means convinced of their validity, even under the present system of penitentiary administration. Upon the alteration of the system along the lines suggested in this report, it seems to the Committee probable that the advantages of communal feeding will be found greatly to outweigh its disadvantages. It suggests that the report of the Penitentiary Board on this subject might usefully be delayed, perhaps for a year. If when made, it is in favour of communal feeding, it should indicate the structural changes or additions to penitentiaries which are necessary to provide for dining-rooms.

Parole and Remission of Sentence

76. It is recommended that instructions to the Parole Officer which, having regard to the terms of the Ticket of Leave Act, should be approved by His Excellency the Governor General, might be as set out below. The Committee has been much impressed by the very strong representations which have been made to it on the subject of the importance of making provision for placing offenders

on probation, a system which has been authorized by law in several of the United States. The principal differences between probation and parole are that offenders on probation have not been convicted while paroled offenders have, and that probation is a function of the Courts, while parole is a matter for the executive government. Constitutional difficulties and considerations of expense both stand in the way of the adoption by Canada of a system of probation, but the Committee is of opinion that the efficient carrying out of the proposed instructions to the Parole Officer will meet the immediate purpose and make further legislative intervention unnecessary.

1. Parole is a mitigation, not a remission, of the punishment of imprisonment. That punishment is nothing more than a restriction of liberty of movement and association. It is often assumed to connote the restriction of liberty by the physical restraints of barred doors and stone walls and the restriction of association to the companionship of fellow convicts and of guards, but this is by no means the only form in which it can be effectively carried out.

2. The whole purpose of punishment is to protect society against disturbance by unsocial acts of a particular character which the law knows as crimes. The fear of its imposition is intended to act as a deterrent to those who, without such fear, might be tempted to criminal conduct and, once crime is committed, it may be and generally is necessary closely to confine the criminal in order to give an opportunity for him to acquire either abilities or habits which will assist him in avoiding further offence. The probability of its being necessary to do so is an important deterrent from crime, but in many cases, more particularly of first offenders, the dreadful formalities of trial and sentence, and perhaps the shock of his introduction into a penal institution, are amply sufficient to create in the mind of the convicted offender a horror of imprisonment which, if release quickly follows, will prevent the commission of a second offence.

3. On the other hand, if the imprisonment continues, familiarity with its conditions, perhaps irritation at some supposed administrative injustice, or at the injustice of the system which imposes greater hardships on the dependents of the prisoner than upon the prisoner himself, may very easily lead to a hardening of his spirit which will produce instead of remove the danger of further social disturbance through fresh criminal acts, to protect against which the punishment of imprisonment was first imposed.

4. Such are cases in which parole is the obvious remedy. The offender is not relieved of punishment; he is still under sentence of imprisonment, but the restriction of his liberty of movement and association is no longer dependent upon bolts and bars but upon the conditions written in his license. Upon his exact observance of those conditions the re-imposition of a more severe restriction depends, and his capacity for self restraint, if it is strong enough to render physical restraint unnecessary, is likely to be further strengthened by being given an opportunity of limited exercise.

5. In such cases the promptness with which the remission of the punishment takes effect is a very important element in the efficacy of the mitigation in securing the social result aimed at. Action should therefore be delayed for the shortest possible period consistent with the proper consideration of the judge's report and the collection of such other information as may be necessary.

6. There is another large class of offenders to whom the considerations just outlined have no application, but who should likewise be permitted to serve part of their sentences outside the prison walls. These are the men who, having been sentenced for serious or repeated offences, have necessarily been obliged to spend a substantial part of their terms in close confinement, but whose conduct and industry in prison have indicated that, by reason of increasing age or the improvement of their habits, the criminal propensities which led them to offend have either lost their original intensity or have been overcome. Every penitentiary officer should be encouraged to note such cases and bring them to attention in order that, in the interval before the final termination of their sentences, an opportunity may be given to such convicts to practise in the world, under supervision, the qualities which they will require in any event upon final release, if they are to succeed in making good their position in society.

7. The two classes of offenders above dealt with by no means exhaust all the convicts in whom the parole officer should be interested or with respect to whom he should recommend action to be taken, but what has been said is sufficient to illustrate the general principles upon which his recommendations for action should be based.

8. The question which next presents itself is as to the nature of the conditions which should be attached to a license—the kind of restriction of liberty of movement and association which the instrument should define. The answer will greatly depend in each case upon its peculiar facts but, speaking generally, the conditions should forbid any movement without special leave beyond a somewhat circumscribed area; they may forbid association with the companions with whom the crime for which sentence was imposed was committed, require service with a specified employer or in a specified occupation, and in certain cases compel the support of a wife or children. For the purpose of supervision they should require notification of any change of permanent address and regular report either by letter or in person to some individual or body named in the license. Only in the most exceptional circumstances should report to the police be stipulated; it is association with the police which it is desirable that the convict should, for the future, avoid. The personal attendance of the convict at a police or parole office or of a police or parole officer at the home or place of business of a convict are both strongly to be deprecated. The report should therefore preferably be required to be made by mail on a form of questionnaire sent out from time to time by an administrative officer acquainted with the convict, for example, the parole officer himself or the warden of the penal institution where he was confined, if such warden is of the proper type and calibre. A still more useful condition, less usually possible to be availed of, would be to require personal report to some citizen of standing resident in the community in which the convict is directed to reside and willing to assume the duties of exercising a general supervision over his conduct. The terms of the recommendation should in each case be the subject of most anxious consideration and the conditions of the license proposed those most likely to result in the successful re-establishment of the convict to whom the license is issued. They may, therefore, in some instances be so generous as to amount almost to complete freedom.

9. In conclusion, it must be pointed out that the issue of a license is in no sense the exercise of clemency. The statutory power to grant licenses is given only to ensure the advantage of the community. The public interest, as that interest has been above defined, should be the sole consid-

eration in the relaxation of the strictness of penal confinement; pity for the convict and the possibility of judicial error, while proper for consideration in the exercise of the royal prerogative of mercy, should be given no weight when the issue of a license under the Ticket of Leave Act is administratively in question. It follows, of course, that it is the officers concerned in the administration of the prisons and penitentiaries or charged with duties under the Ticket of Leave Act who should initiate proceedings for release on parole, not the prisoner himself or his relatives or friends. Officers should therefore be diligent in anticipating applications in those cases in which, if applications were made, licenses would issue.

77. The Committee has no recommendation to make on the subject of the exercise of clemency by virtue of the royal prerogative. The exercise of the prerogative seems to be a matter of state policy rather than of administration, and the Committee does not consider that an expression of its opinion upon it would be of value. It ventures, however, to suggest that the administrative consideration of cases in which the prerogative may be exercised and of cases in which the question is as to the issue of a license under the Ticket of Leave Act, should in the first instance be entrusted to different officers. It appears to the Committee that the considerations which should govern the action to be taken in the one class of cases and that which should be taken in the other differ so widely that to entrust both classes to the consideration of a single officer tends to confusion of thought and to the possibility of capricious action which is likely substantially to reduce the value of the statutory power.

Reciprocal Foreign Paroles

78. Representations have been made to the Committee by prison officers in certain of the American states suggesting the advantages of reciprocal arrangements by the parole officers in Canada and in their respective states for the reciprocal supervision of paroled prisoners, this suggestion having particular reference to Canadians who have undergone prison sentences in the states in question and Americans who have been imprisoned in Canadian prisons. The Committee ventures to suggest that reciprocal arrangements, either general or limited to the class of cases last referred to, might usefully be made and suggests that the Penitentiary Board be asked to report fully upon the subject.

Estimates and Accounts

79. The proposals made by the Committee in this report will involve an additional administrative expense of about \$25,000 beyond that for which provision is made in the proposed estimates, and immediately upon the appointment of an industrial director the improvement of the plant at the penitentiaries must be undertaken. As a beginning the provision of \$75,000 for this purpose would probably suffice, and the Committee is of opinion that the expenditure of the \$100,000 thus suggested ought to yield in the value of the penitentiary products not less than five times that sum. The Committee therefore recommends a supplementary appropriation of that amount for the approaching financial year. It also suggests that in future years the form of the appropriation for penitentiary purposes should be altered. The present appropriation

of a specific sum for each penitentiary prevents, or renders very inconvenient, the reallocation of prisoners so as to increase or decrease the number at any penitentiary, and the Committee is of opinion that the estimates would be found much more convenient if named sums were appropriated for rations, clothing, furniture, building, equipment, and other general items of that kind for penitentiary officers and the convict population as a whole.

PART V. CONCLUSION.

80. Exactly as some schoolmasters of a century ago would have said that our modern scholastic system was impossible because too "soft," exactly as some officers of the insane asylums of fifty years ago would have said that the modern treatment of the insane was unthinkable dangerous, so some penitentiary officers of to-day will say of the plan proposed in this report. This argument, in itself answered by the schools and asylums, may be supported by an allegation that, under the proposed system of administration, imprisonment in a penitentiary will lack deterrent effect. As to the complete unsoundness of such an allegation the Committee does not entertain the slightest doubt. So far as respects ex-convicts the unanimous testimony of penitentiary officers is that at present the prison conduct of recidivists is generally good; such men usually make "the best prisoners." If regeneration instead of repression becomes the dominant administrative principle, recidivists should become less common. At all events it will no longer be possible to say with as much truth as the statement now certainly contains, that prisons make prisoners because they make criminals. On the other hand, every normal man recoils at the idea of the restraint of his liberty by prison walls, and unconvicted persons will shrink to the same degree as they now do from incurring the risk of a prison sentence. Speaking for themselves, the members of the Committee would not before undertaking this investigation have believed that the penitentiary system could have been as needlessly cruel as it in fact is, and the absence of those features of the system which involve unnecessary mental or physical suffering would not to any of them make prison any the less abhorrent. If that view represents, as it is thought to do, the views of the average educated person, certainly the imagination of the uneducated is not so acute as to suggest a wide difference between forbidding prison walls concealing an unnecessarily cruel, or only an inevitably painful system of punishment. Even if the contrary were true, the benefit to society of a system really directed to the reform of criminals would far outweigh any possible disadvantages of the change; the modified unwillingness to undergo imprisonment of an occasional weak-minded person who had no objection to the restriction of his liberty would by no means be sufficient to counterbalance the benefits accruing to society from a proper system of administering the whole penitentiary population.

All of which is respectfully submitted this 28th day of February, 1921.

(Signed) O. M. BIGGAR.

W. F. NICKLE.

P. M. DRAPER.

APPENDIX A

PENITENTIARY POPULATION ANALYZED BY REFERENCE TO AGES AND CRIMES, AS OF MARCH 31, 1920.

Crimes	Under 20 years	20-25 years	25-30 years	30-35 years	35-40 years	40-45 years	45-50 years	50-60 years	Over 60 years	Total
Murder and attempt to commit	6	16	34	27	20	24	7	13	4	151
Manslaughter	9	16	22	18	13	15	8	7	1	109
Unnatural offences	13	24	36	33	34	38	25	37	13	253
Burglary, breaking and entering	135	112	68	36	30	14	9	11	4	419
Robbery with violence	17	39	21	5	3	5	1	1		92
Theft, stealing, receiving and unlawful possession	82	152	105	66	57	36	16	13	6	533
Shooting with intent	3	7	6	7	6	3	1	3		36
Horse and cattle stealing	4	4	6	9	2	2	4			31
Forgery, fraud, false pretences, possessing and uttering	13	26	31	13	17	8	5	3	3	119
Bigamy	1	5		5	3	4	5	3		26
Escapes and breaking gaol	11	12	6	3				1		33
Wounding	5	7	10	5	3	4	3	3		40
Arson		3	1	5	2	2	1	1	1	16
Possession of explosives and carrying offensive weapon	3	3	3	1	3	1		1	1	16
Assault	1		2	2	1				1	7
Conspiracy to defraud	1	1		3		1		1		7
Riot, unlawful assembly, and sedition and having unlawful literature		1	1	2	2	1				7
Killing or damaging sheep or cattle		1	1				1	1		4
Perjury					1	1	1			3
Interference with police officer				1		1			1	3
Breaking parole		1			2					3
Sundry offences	1	5	3	4	5		1	3		22
	305	435	356	245	204	160	88	102	35	1,930

APPENDIX B

PENITENTIARY EXPENDITURES, REVENUE AND COSTS 1895-1919

Year	Gross Expenditure	Revenue	Net Expenditure	Average Population	Net Cost per capita	Net Cost per diem
	\$ cts.	\$ cts.	\$ cts.		\$ cts.	\$ cts.
1895	468,750 42	27,327 86	441,422 56	1,250	353 14	0 97
1896	389,284 83	44,155 05	345,129 78	1,314	262 66	0 72
1897	396,002 40	84,177 27	311,825 13	1,353	230 47	0 63
1898	356,366 96	77,089 28	279,277 68	1,415	197 37	0 54
1899	393,020 48	48,052 85	344,967 63	1,447	238 40	0 65
1900	422,709 17	73,556 78	349,152 39	1,430	244 16	0 67
1901	433,927 88	31,389 20	402,538 68	1,405	286 50	0 79
1902	417,355 21	74,136 53	343,218 68	1,294	265 24	0 79
1903	450,859 02	41,424 38	409,434 64	1,224	334 50	0 92
1904	422,661 43	73,494 85	349,166 58	1,286	271 51	0 74
1905	429,537 63	55,766 81	373,770 82	1,359	275 04	0 75
1906	485,894 54	74,868 90	411,025 64	1,407	292 13	0 80
1907	411,776 04	84,361 23	327,414 81	1,433	228 47	0 63
1908	584,061 92	83,556 05	500,505 87	1,418	352 90	0 97
1909	539,436 81	50,436 81	488,999 21	1,620	301 23	0 83
1910	536,325 78	45,686 76	490,639 02	1,824	268 99	0 74
1911	525,648 00	52,018 00	473,630 00	1,834	258 25	0 70
1912	649,350 14	59,666 47	589,683 67	1,853	330 10	0 90
1913	698,530 82	66,284 17	632,246 65	1,911	355 00	0 97
1914	839,409 75	55,472 40	783,937 35	1,946	391 88	1 07
1915	856,208 34	47,037 93	809,170 41	1,989	390 42	1 07
1916	898,900 27	44,771 79	854,128 48	2,074	389 93	1 07
1917	908,483 95	63,462 67	845,021 28	1,938	409 96	1 12
1918	975,134 58	75,828 37	899,306 21	1,513	558 51	1 53
1919	1,002,127 84	138,618 04	863,509 80	1,530	588 89	1 61

APPENDIX C

**LIST OF PUBLICATIONS, MEMORANDA, ETC., PREPARED FOR OR
FURNISHED TO THE COMMITTEE IN CON-
NECTION WITH THIS INQUIRY.**

1. Memorandum of W. P. Archibald, Dominion Parole Officer, dated October 28, 1920.
2. Report from Inspector Smith, Acting Warden of Kingston Penitentiary, as to the Prisoners in Isolated Confinement on November 11, 1920, with transmitted reports and conduct sheets.
3. Memorandum submitted by the Canadian Prisoners' Welfare Association, November 4, 1920.
4. Regulations governing the Duties of the Purchasing Agent, Department of Justice.
5. Report on the Administration of Criminal Justice and Treatment of Prisoners in New York, Chicago, Detroit and Toronto, by His Honour Judge Coatsworth, Senior Judge of the County of York, dated September 25, 1920.
6. Prison Education—The Experiment at Deer Island House of Correction, Boston; by Henry A. Higgins, Deputy Commissioner of Correction, Massachusetts; Bulletin No. 67, Massachusetts Prison Association.
7. Statement showing Number of Arrests and Number of Commitments in Massachusetts, 1914-19.
8. Descriptive List of the Articles and Materials Made by the Labour of Prisoners for Use in the Public Institutions; issued by the Department of Correction of the Commonwealth of Massachusetts, September, 1920.
9. Manual of the Massachusetts Reformatory, for the Use of Prisoners.
10. Rules of the Board of Parole and Statutes Affecting the Said Board. Published by the Department of Correction of the Commonwealth of Massachusetts, September, 1920.
11. Cross Reference and Syllabus of Psychopathic Diagnoses, Massachusetts Reformatory, Concord, 1914-19.
12. Eleventh Annual Report of the Massachusetts Commission on Probation, for the Year ending September 30, 1919.
13. Forty Years of Probation (Editorial in the Boston Evening Transcript, July 27, 1918); published by the Massachusetts Commission on Probation.
14. A Word from the Bench to Probation Officers; Massachusetts Commission on Probation.
15. List of Massachusetts Probation Officers.
16. Probation Manual, published by the Commission on Probation, Court House, Boston, Mass., July, 1916.
17. A Model General Probation Law, prepared for use in the United States of America.
18. The Progress of Probation; by Edwin J. Cooley, Chief Probation Officer; being an Account of the Development and Accomplishments of Probation, particularly during the past four years; Magistrates' Courts of New York; October 1, 1920.
19. History Chart Used by Department of Correction, Commonwealth of Massachusetts, in Relation to Every Prisoner.
20. Budget Forms, Commonwealth of Massachusetts.

21. General Rules Adopted by the State Board of Charities and Corrections of New Jersey, promulgating a parole and administrative system for State correctional institutions.
22. Rules and Regulations of the Board of Managers of the New Jersey State Prison.
23. Reports on Psychological Analyses of Industries at the State Prison, New Jersey, by Edgar A. Doll, Psychologist; March 15 (Print Shop) and April 21 (Shoe Shop) 1920.
24. The Average Mental Age of Adults; by Edgar A. Doll.
25. Forms of Job Specification Card, and Industrial Vocational Qualification Card, prepared by Edgar A. Doll, Psychologist, for use at the State Prison, Trenton, New Jersey.
26. A Study of Notable Criminal Factors, by Edgar A. Doll; reprinted from the Journal of Criminal Law and Criminology, Vol. 11, No. 1, May, 1920.
27. Report of the Prison Survey Committee on the Prisons of the State of New York; National Committee on Prisons and Prison Labour, 1920.
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37. Return giving particulars respecting the convicts in the various penitentiaries, March 31, 1920.

APPENDIX D

DRAFT OF REGULATIONS (INCLUDING SAFEGUARDS) RELATING TO THE REMISSION OF SENTENCES UNDER THE MARKING SYSTEM.

1. No remission of sentence as provided by the Penitentiary Act may be earned by any convict until after the expiration of the first six months of his sentence calculated as hereinafter provided, but thereafter each convict may earn a remission not greater than six days for each month until he has at his credit seventy-two days remission. After he has seventy-two days remission to his credit he may in every month earn ten days remission.

2. Every convict who is admitted to a penitentiary before the fifteenth day of any month may commence to earn remission at the commencement of the sixth month following the month in which he was admitted, and every convict who is admitted on or after the fifteenth day of any month may commence to earn remission at the beginning of the seventh month after the month in which he was admitted.

3. The right to remission shall be determined by a system of marking as hereinafter described. Until a convict has at his credit seventy-two days' remission, the loss of a number of marks equal to one-sixth of the maximum which he might have earned shall have the effect of depriving him of one day's remission of his sentence, and after he has at his credit seventy-two days' remission, the loss of a number of marks equal to one-tenth of the maximum he might have earned shall have the effect of depriving him of one day's remission.

4. For any day spent in hospital on the orders of the medical officer a convict shall neither earn or be chargeable with marks for industry unless the medical officer certifies that the convict was in his opinion malingering, but, unless the medical officer otherwise directs, marks for industry may be earned for any working day upon which convict reports sick but is not ordered into hospital.

5. There shall be kept in every shop a "Conduct and Industry Register" in the prescribed form, and every officer in charge of convicts at work outside shall keep a book or a memorandum book in which similar entries shall be made. For the hospital a "Conduct Register" shall be kept. In every such register or memorandum book there shall be entered the names and numbers of every convict employed in the shop or under the officer in question, or confined to hospital, and before going off duty each working day the disciplinary officer in charge of the shop, party or hospital shall enter therein a number representing the conduct of the convict during the day. Except in the hospital conduct register, the trade instructor in charge, if any or, if none, the disciplinary officer shall also at the same time enter therein a number representing the industry of the convict during the day. The maximum number of marks allowed shall be three for conduct and three for industry and a reduction shall be made of one or more marks when such deduction is justified by misbehaviour or idleness on the part of the convict which is not so serious as to require him to be reported to the warden; no marks shall be deducted under this paragraph in respect of any act or omission which is made the subject of such a report.

6. At the end of the last working day of every month the conduct and industry registers and memorandum books shall be delivered up to an officer named in standing orders, and alternative registers or memorandum books shall be issued in their stead for use during the next following month. The total conduct and industry marks earned by each convict during the preceding month and the maximum number of marks which might have been received by each during the month together with any lost marks carried over the preceding month, shall be recorded in a book kept for the purpose in the prescribed form in which shall also appear the number of marks the loss of which by such convict would have the effect of depriving him of a day's remission as hereinbefore described.

7. On or before the seventh day of each month the book described in the last preceding paragraph shall be laid before the warden who may forgive or confirm the whole or any part of the forfeiture of remission or may, when any convict has forfeited a number of marks which is not an even multiple of the number which would result in the loss of one day's remission, forgive the number of marks which the convict has failed to earn in excess of the next smaller multiple or direct that such number be charged against the convict in the next following month. The warden shall cause every convict whose forfeiture he thinks should be confirmed in whole or part to be brought before him and shall, before such confirmation, hear any statement such convict desires to make on the subject. Every confirmation or forgiveness or other order with respect to remission shall be recorded in the book and initialled by the warden. The number of days remission forfeited by each convict and not forgiven by the warden shall be entered monthly in a Remission Register to be kept for the purpose.

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